Lisanti

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IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT IN AND FOR DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION
CASE NO: 94-08273 CA (20)

HOWARD A. ENGLE, M.D., et al.,
Plaintiffs,
VS.
R.J. REYNOLDS TOBACCO COMPANY, et al.,
Defendants.
_____/

875 Third Avenue
New York City, New York 10022
Wednesday, August 13, 1997
11:20 a.m.

TELEPHONE DEPOSITION OF DR. VINCENT LISANTI

Taken before Jack Lee Moore, Court Reporter and Notary Public in and for the State of Florida at Large, pursuant to Notice of Taking Deposition filed in the above cause.

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APPEARANCES:

by JOHN HOAG, ESQ.
STANLEY M. ROSENBLATT, P.A.
Two West Flagler Street
11th Floor, Concord Building
Miami, Florida 33130-1809
on behalf of the Plaintiffs

by ALAN SCHEINER, ESQ.
CRAVATH, SWAINE & MOORE
825 Third Avenue
New York City, New York 10022
on behalf of the Defendants
(via telephone)

ALSO PRESENT:

KYLE TENDY, Court Reporter
(via telephone)

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WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
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MR. HOAG: For the record, we haven't sworn in the witness yet, but there was a discussion off the record regarding the fact that there is a notary in New York City who also is capable of being a court reporter, but for the purpose of this deposition she is going to be used as a notary to swear in the witness, and as an observer who merely is sitting and observing what happens during the deposition.

Her observations that she makes about what happens during the deposition are available to either side. We need to have an observer on the other side because obviously we aren't present, and not able to be present for every deposition that we take. We have a small staff here, unlike the tobacco industry, who literally has hundreds of attorneys to take care of both the trial and the depositions.

For that reason, we need an observer in the other location to find out what is going on, and to make sure that things that shouldn't be happening aren't happening. We're not casting aspersions on anyone, but we need someone there to make neutral observations, and that is why she is there.

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MR. SCHEINER: I will tell you that if we do anything untort, they have--they have their clothes on, right?

MR. HOAG: Get that on the record. Are you ready to swear in the witness?

MR. SCHEINER: I am objecting to this procedure. I would like to get it on the record. I think a person is either a court reporter or a legal assistant. I don't think there is anything in between.

In our view, this person, Ms. Tendy, is a legal assistant working for Plaintiffs' counsel in this case.

I don't think it is appropriate for the ability of the plaintiffs to swear in the witness. I don't think her so-called observations are impartial whatsoever as to the observations of the court reporter and she is completely under the control of the plaintiffs. If she wants to be here on that basis, that is fine with me, and she can do whatever she wants.

MR. HOAG: Are you under the control of the plaintiff, sir?

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MR. SCHEINER: What is that?

MR. HOAG: Are you the attorney representing the defense?

MR. SCHEINER: Counsel for Tobacco Research.

MR. HOAG: Is the witness there right now?

MR. SCHEINER: Yes, he is.

MR. HOAG: Are you under the influence, by identifying the witness as being present right now?

MR. SCHEINER: I have no idea why you're asking me these questions. If you want to--

MR. HOAG: Is Mr. Vincent Lisanti there and present, sir?

MR. SCHEINER: Go ahead.

MR. HOAG: I am asking if he is there. You are concerned about neutrality and you're on the other side. Can you identify the witness?

MR. SCHEINER: Ms. Tendy, you are not permitting me to pay her to produce a transcript?

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MR. HOAG: Answer my question. Is the witness present?

MR. SCHEINER: I am not answering any of your questions. We wasted enough time today. It wasn't your fault. I wasted time on my end with the potential problems and I made my objections on the record.

MR. HOAG: For the record, that is absolutely a totally ridiculous claim that the notary, who is also a court reporter, is incapable of neutrally swearing in the witness and verifying that the witness is being sworn in.

MR. SCHEINER: I am not finished.

MR. HOAG: When the defense attorney for the other side is in New York with the witness and knows the witness is actually there and who knows the witness is actually being sworn in. This is totally ridiculous.

MR. SCHEINER: Mr. Hoag, are you paying Ms. Tendy or her firm for her services, yes or no? That is my question.

MR. HOAG: Just as I pay a court reporter and you pay a court reporter.

MR. SCHEINER: The court reporter has

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duties to the court. You said that Ms. Tendy is not allowed to make a transcript of the proceedings, and I am not allowed to pay her for a transcript. That is your position, and you want to take that position then fine. I am saying that makes her your agent.

MR. HOAG: Swear in the witness, please.

Thereupon:

DR. VINCENT LISANTI

a witness named in the notice heretofore filed, called by the plaintiffS, was first duly sworn in the above cause by Court Reporter KYLE TENDY, and testified on his oath as follows:

DIRECT EXAMINATION

BY MR. HOAG:

Q State your name for the record, please.

A Vincent Lisanti. L-i-s-a-n-t-i.

[DELETED]

Q Are you represented by an attorney today, sir?

A Yes, sir.

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Q Who is your attorney?

A Mr. Alan Scheiner.

Q He is there with you right now?

A He is.

Q What location are you at right now, sir?

A I am in New York City.

Q I am taking this deposition by telephone and I am in Miami, Florida, obviously.

A Is the sun shining?

Q The sun is shining today and it is pretty nice.

A We have rain, and foggy and rain all over the place.

Q I was up there in New York last week and the weather wasn't too bad.

A Well, that is nice.

Q So anyway, just for the record, you have got an attorney with you and you have been sworn in to tell the truth. Have you ever been deposed before?

A Yes.

Q How many times?

A Twice.

Q What were the two times that you were

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deposed?

A I don't understand your question. What do you mean, what?

Q When were you deposed prior to this deposition?

A Oh, let's see--the last couple of months.

Q So both of your prior depositions were in the past few months?

A Yes.

Q What case were you deposed in, or cases?

A Arch.

Q I'm sorry, I didn't hear you.

A Arch.

Q You said Arch?

A A-r-c-h.

Q What is that?

A That, as I understand it, is a Virginia case.

Q That is a tobacco-related case?

A Yes, sir.

Q Did a state or government file that case?

A I don't know.

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Q Is CTR a defendant in this case?

A I was a witness for them.

Q Do you know if CTR is a defendant in that case?

A I guess like all other defendants in the tobacco industry.

Q Who took your deposition for the Arch case?

A There was a reporter here and a couple of attorneys from Philadelphia.

Q Do you remember their names?

A One was Melom, and I forgot the other guy's name.

Q What was the guy's name?

A Melom.

Q M-e-l-u-m?

A I don't know if it is u-m or o-m. It is Melom, Thomas Melom.

Q How long did that deposition take?

A Well, it has gone two days so far and we are going to have another day coming up.

Q Two full days?

A Yes, sir.

Q Well, this isn't going to take that long.

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A Good.

Q You are still not finished with that deposition?

A That is correct.

Q When are you going to finish it up?

A If everything goes well, on the 25th.

Q Aside from that deposition, the deposition in the Arch case, are there any other depositions that you have participated in?

A No.

Q So when you say two depositions, you meant two depositions in the same case?

A That is correct.

Q It was really a continuation of the same deposition; right?

A That is correct.

Q Are you a medical doctor, sir?

A No, sir.

Q No?

A No, sir.

Q What do you have, a Ph.D.?

A No, sir.

Q What is your educational background, sir?

A I have got a dental degree. A Doctor

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of Dentistry, D.M.D.

Q What year did you get that degree?

A 1942.

Q What college?

A Tufts University School of Dental Medicine.

Q I missed the first part. I have got the University School of Medicine.

A Tufts, T-u-f-t-s in Boston, Massachusetts.

Q Where did you get your undergraduate degree?

A I didn't get my undergraduate degree.

Q Do you have any other degrees other than a Doctor of Dentistry?

A No, sir.

Q Can you briefly describe for me your chronological work history beginning after you graduated from the dental school to the present?

A United States Army, four years. I was assigned to the Sanitary Engineering Corp and later assigned to the Dental Corp. Discharged from that and went into private practice and I was in private practice for a little over two years. I stayed in New York. I went to Tufts University School of

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Medicine and Research Fellow, 1948.
At the end of two years I became a research associate in the Research Department at Tufts University Medical School and Dental School. Became--later on became Associate Professor of Research at Tufts Medical Dental Center. I ran a research program on my own as well as in collaboration with others. I had graduate students a number, or all of which have gotten one form of degree or another, either a master's degree or a Ph.D. degree.
I became the director of the Institute of Stomatological Research in Boston, Massachusetts, the Division of Science Resources Foundation and was a director until it was closed up in the late '70s.
During that time while at Tufts I became a consultant to a number of pharmaceutical companies, a contractor for the United States Air Force, Office of Naval Research and several pharmaceutical companies. I held a national institute of health grants from at least two institutions and various other activities all having to do with various types of research, mainly dealing with metabolic enzymology.
One of hte consultantships that I took

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on in 1964 was part-time consultant to the Council for Tobacco Research as a part-time consultant. I operated as a consultant for them off and on until 1975 when I became a full time employee and in 1994 I retired, June the 30th of 1994 I retired. I have been in retirement from the council since that time.
Q Have you done any other work since your retirement?
A I am a consultant.
Q For who?
A A number of organizations.
Q Including the CTR?
A No. I have nothing to do with the CTR at all except now I am being deposed as a witness.
Q Who contacted you to be deposed as a witness for the CTR?
A Who contacted me?
Q Yes.
A I am--
MR. SCHEINER: I will object to the extent that it calls for a conversation with legal counsel.
BY MR. HOAG:
Q I didn't ask you what you said. I just asked who.

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MR. SCHEINER: I think your question called for the contents of communication with legal counsel and if Dr. Lisanti's answer refers to those conversations I would direct him not to answer. Answer without referring to conversations with your lawyers. Go ahead.
BY MR. HOAG:
Q At the time that you were contacted to be a witness for CTR, were you an employee of CTR?
A No.
Q Who contacted you?
MR. SCHEINER: Same objection.
BY MR. HOAG:
Q Who contacted you?
A I can't answer the question.
Q Yes, you can answer it. Are you refusing to answer? Are you instructing him not to answer that question?
MR. SCHEINER: It seems to me what you are asking him is when his lawyers called him to talk about this deposition.
MR. HOAG: What do you mean "his lawyers"? He didn't work for CTR at the time that he was contacted.

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MR. SCHEINER: Debevoise & Plimpton represent Dr. Lisanti with respect to the tobacco litigation.
BY MR. HOAG:
Q Prior to the time that you were contacted to be a witness for CTR, sir, did you already have an attorney?
A No, sir.
Q So at the time you were contacted, up until the very time that you talked to somebody, you didn't have an attorney; right?
A Correct.
Q So who contacted you?
A An attorney.
Q What attorney contacted you?
A Debevoise & Plimpton.
Q Which specific attorney from Debevoise & Plimpton?
A I don't remember who it was specifically. They are a large law firm here.
Q When that law firm contacted you, what did they say to you?
A They asked me if I would be willing to recount my experiences at CTR.
Q What did you say?

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A Yes.
Q Are you being paid for this?
A For this particular deposition?
Q Yes.
A No.
Q Were you paid for any of the other depositions that you have already spoken about?
A No.
Q Were you paid for preparing for your testimony?
A Yes.
Q What were you paid to prepare for your testimony?
A I am a consultant--I am a consultant for Debevoise & Plimpton.
Q That wasn't my question, but--
A That is how I am getting paid.
Q That is how you are getting paid. How much are you getting paid?
A $1,250 a day when it interferes with other activities that I normally have during my consulting business.
Q Are you being paid $1,250 per day for each day of preparation for the deposition?
A When it interferes with what I have

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under normal business activities in my other consultantships.
Q Does this deposition interfere with any of that?
A No.
Q How many days has it interfered with your normal consultantship business?
A With respect to what?
Q With respect to your being paid $1,250 per day.
A I haven't got an accurate count yet. If you want I will give you an estimate.
Q Go ahead.
A So far it has been somewhere in the order of twelve-and-a-half days, roughly.
Q Have you submitted a bill?
A A partial bill, yes.
Q Have you been paid for all the preparation that you have done for depositions you have spent what you would bill for twelve-and-a-half days at $1,250 per day; is that correct?
A That is what I would normally do, yes.
Q Is that what you are going to do in this case?
A I will.

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Q Now, the twelve-and-a-half days, I want to make sure I understand. Is that for all the cases cumulatively, or just for this case that you are being deposed on today?
A All of the cases.
Q When were you first contacted? You said a couple of months ago, but do you remember specifically what month?
A Let's see. It actually was--I believe it was in February, but I am not--I am not absolutely certain of that. I believe it was February.
Q You are talking about 1997; right?
A Yes, 1997.
Q If it wasn't in February that would be pretty close anyway?
A I beg your pardon?
Q If it wasn't in February it was pretty close?
A The beginning of the year sometime and I think it was February, or it might have been the end of January.
Q Aside from being asked if you would be willing to recount your experience at CTR, were you asked to do anything else?
MR. SCHEINER: Objection because it

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calls for attorney/client communication.
BY MR. HOAG:
Q You can answer.
MR. SCHEINER: You can answer if you can answer without referring to communication during the time that you have been represented by Debevoise & Plimpton.
MR. HOAG: You know, this is another ridiculous thing. He did not hire you, Mr. Attorney, you hired him. He clearly said that. That is not privileged.
MR. SCHEINER: You asked him about his first conversation with somebody from Debevoise & Plimpton. That is all you asked about. I am getting my objection on the record. You are talking about my conversation with him yesterday, or some conversation with him a year ago?
MR. HOAG: It doesn't matter. None of it is privileged. You hired him.
MR. SCHEINER: It is. We represent this witness and have for some time. I am directing him not to answer. If you want to make silly comments about that then go ahead.

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MR. HOAG: You know, this is really ridiculous. You hired him to be a consultant and he is being deposed based upon what you hired him to be a consultant for. Therefore, any communications related to that is not privileged.
MR. SCHEINER: Whatever you say. Ask him your questions, please.
BY MR. HOAG:
Q What, if anything else, were you asked to do by the attorneys in your job as a consultant to prepare for these depositions?
A Nothing.
Q Did you have any other conversations, other than the one initial conversation with the attorney to discuss what you were going to testify about for these depositions?
A I had several conversations with several attorneys over this period of time.
Q Who were the other attorneys that you had conversations with?
A There were also employees of D & P, Debevoise & Plimpton.
Q Do you remember any of their names?
A Steve Klugman, Alan Scheiner who is

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here, and Bruce Merritt.
Q How many times did you meet with any of those individuals?
A Oh, my gosh, I can't remember because some of these were in and out sessions where I was occupied for half a day or day and then one attorney or another would come in and out. I cannot give you a touch and go count.
Q Do you remember any of the discussions that you had with them?
MR. SCHEINER: I instruct the witness not to answer.
THE WITNESS: I remember a lot of them, but it is privileged.
BY MR. HOAG:
Q Are you not answering because he told you not to answer?
A That is right.
Q Certify the question. It is not privileged as to conversations that you had when he hired you as a consultant to be an expert for this deposition.
MR. SCHEINER: Objection, and it assumes facts not in evidence.
THE WITNESS: Everything that I

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discussed with the attorneys in this law firm had to do with my personal experiences as a consultant and part-time, and as an employee full time during my relationship with the Council for Tobacco Research-USA, Inc. and that is what most of, if not all of, the time has been spent right up until this very moment as I am talking to you.
BY MR. HOAG:
Q You are being paid to provide that testimony about that issue; correct?
MR. SCHEINER: Objection.
BY MR. HOAG:
Q Is that correct?
A I am being paid as a consultant to inform them of my experiences.
Q So everything that you talked about with the attorneys was related to your testimony; correct?
MR. SCHEINER: Objection to the question. It is privileged grounds and I instruct the witness not to answer.
BY MR. HOAG:
Q Is that correct?
MR. SCHEINER: Conversations with his

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attorney I object.
BY MR. HOAG:
Q Is that correct? Certify the question. He has to answer these questions. All witnesses have to answer them. We hire someone as an expert and we pay them to do the work for us and they have to answer questions about communication that they had with us. You don't have any special protection when you hire somebody to do the same for you.
MR. SCHEINER: Mr. Hoag, you can tell the judge if you want to do that now, or if you want to do it later that is fine, and Mr. Lisanti was an employee of CTR for 30 years.
We are entitled to represent him in the matters in connection with his employment, which we do, and have represented him for some time. What his consulting fee arrangement with us is has nothing to do with that undercut and it is not consistent with it. If you are saying that we are not entitled to represent Mr. Lisanti, then go ahead and tell the judge that we are not. I hope you have a good reason. Please continue with the deposition. I don't want

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to argue about it any more.
MR. HOAG: Well, you're hindering my ability to complete the deposition. I am going to do what I can to complete as much as I can of the deposition and then we will continue after we make our objections in front of the judge that we weren't able to complete the deposition. You didn't allow us to ask questions about a witness that you hired specifically to be a witness for you.
MR. SCHEINER: Whatever you say.
MR. HOAG: You said whatever I say?
MR. SCHEINER: I said--what I mean was just ask your question, please.
MR. HOAG: You said whatever I say, and he changed it what I mean just ask your question.
MR. SCHEINER: Are you telling your court reporter--let me speak to the court reporter for a moment.
THE COURT REPORTER: I am right here.
MR. SCHEINER: Could the court reporter please identify herself on the record?
THE COURT REPORTER: Yes. Jack, J-a-c-k, Moore, M-o-o-r-e.

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MR. SCHEINER: What firm are you with?
THE COURT REPORTER: Klein Bury.
MR. SCHEINER: Who do you work for at this very moment?
THE COURT REPORTER: Klein Bury.
MR. SCHEINER: Do you work for the plaintiff in this deposition, or are you a court reporter?
THE COURT REPORTER: I am just a court reporter.
MR. SCHEINER: Are you writing down in this transcript what the plaintiff tells you right now, or what you hear?
THE COURT REPORTER: No. I am writing what I hear, but the last comment that you made I did not hear, but I--
MR. SCHEINER: Are you writing what the plaintiff's lawyer said?
THE COURT REPORTER: No, I was going to ask you and then he made the comment of what you said.
MR. SCHEINER: I would appreciate it if you ask me and not him what transpired on this end of the phone.
THE COURT REPORTER: That is what I was

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trying to do. Fine. No problem.
MR. SCHEINER: I also requested if you cannot hear something that Mr. Lisanti says, that you speak up.
THE COURT REPORTER: I am fine. It was just that last comment. It was cut off on the phone and it sounded like you were sitting further away from the phone and I didn't hear it and that one comment and--
BY MR. HOAG:
Q Were you shown any documents by any of the attorneys?
A Yes.
Q What documents were you shown?
MR. SCHEINER: Same objection. I direct the witness not to answer.
MR. HOAG: This is absolutely ridiculous. You listed this guy as a witness and you have shown him documents in preparation as your witness and now you are saying that he can't tell me what documents he looked at in preparation for this deposition. This is ridiculous.
Obviously we are going to have to do this one over again. Are you going to stick

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with that, that you are instructing him not to tell me what documents he looked at?
MR. SCHEINER: I just did. I am not changing my mind.
MR. HOAG: Are there any other attorneys there that I can speak to?
MR. SCHEINER: No. I am representing this witness and the Council for Tobacco Research. If you've got a problem you can speak to some other attorney some other time.
MR. HOAG: I would like to speak to another attorney now, because maybe we can get this set so we don't have to do this deposition twice.
MR. SCHEINER: Sorry.
MR. HOAG: You might want to consult with some of your brethren over there. You are incorrect here.
MR. SCHEINER: I thank you, Mr. Hoag. We have got 150, 200 cases brought by unscrupulous plaintiff's lawyers who make up lies about our clients and we have things to do. I am the only one who could be available for this waste of time. Continue.

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MR. HOAG: It is unfortunate that that is true, because I have other occasions when attorneys would go and consult with other people to see if they, or if their impressions were correct, so that they can move things along. You don't want to do that; correct?
MR. SCHEINER: If you feel confident that you are correct--
MR. HOAG: I am.
MR. SCHEINER: Then that resolves it then.
MR. HOAG: We can't.
MR. SCHEINER: What do you mean we can't. There are procedures for handling these things. The rule is not that you get ask whatever question you want. The rule is if I think something is privileged I instruct the witness not to answer, which I have done. If you've got a problem with that then you go to the judge now or you can complete the deposition and go to the judge later. It is up to you.
MR. HOAG: I don't know why you want to waste all this time.

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BY MR. HOAG:
Q The documents that you looked at, are you relying on them in any way for any portion of your testimony today?
A No.
Q Did they refresh your recollection as to anything--
A I beg your pardon? What did you say?
Q Did the documents that you were shown refresh your recollection as to any part of your testimony?
A After 34 years I need some refreshment.
Q So the documents did refresh your recollection as to what you were going to testify to today; is that correct?
A Not today. My entire relationship with CTR over a period of 30 years.
Q Are you going to talk today about your entire relationship with CTR over a period of 30 years?
A If you ask me some direct specific questions I am going to talk about it. So ask me specific questions that have relevance to my history with CTR and I will honestly try to answer them.
Q I am trying to, but your attorney keeps

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instructing you not to answer them.
MR. SCHEINER: Object to your comment. I haven't instructed him not to answer questions about his relationship with CTR. I have instructed him not to answer questions about his conversations with his attorneys. There is a big difference. I think that is what Vince is trying to tell you.
BY MR. HOAG:
Q Have you reviewed any documents since you were first hired to be a consultant?
A Yes.
Q What documents did you review?
MR. SCHEINER: Same objection.
MR. HOAG: Well, I am asking him now what documents he reviewed. I am not asking if anybody showed him a document.
MR. SCHEINER: To the extent that he reviewed them in conversation with his attorneys, I am objecting.
MR. HOAG: You can't be serious.
MR. SCHEINER: He is not to answer.
MR. HOAG: You are instructing him not to tell me, just if he looked at documents?

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MR. SCHEINER: He already told you that he did.
BY MR. HOAG:
Q I want to know what documents he looked at.
MR. SCHEINER: Vince, if you can answer.
BY MR. HOAG:
Q Any documents that you looked at since you were hired to be a consultant for this case, what documents do you recall looking at, sir?
A Documents that start back when the time--from the time when I first went there in 19--October 1964 as a consultant and from time to time there were documents that they showed me in '65, '66, '67, '68, '69 and on and on and on and on and on and on and on and--
MR. SCHEINER: Vince, I am going to object. I don't know what documents he is going to refer to. There are documents that he might have reviewed on his own, and there are documents that he reviewed in consultation with his attorneys. I think you're making a fundamental error here, Mr. Hoag. Vince is not hired and not retained

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as an expert witness by CTR.
We represent him because he is a witness in these cases as well as he is a consultant to us in connection with the litigation. That doesn't make him an expert witness. That does not make him entitled to his entire conversations or meetings with us. Those things are not only attorney/client privilege, but they are work product. You are not entitled to do it. I am directing you to stop or we are going to end the deposition right now. Ask him real questions, please.
MR. HOAG: I am not going to stop asking him questions. If you feel that you need to end the deposition right now, you feel free to do that. We'll get sanctions against you for the waste of time that you have put us through so far today.
MR. SCHEINER: If we get any more questions, or ten more questions that call for privileged communication I am going to end the deposition.
MR. HOAG: If you feel that you have to end this deposition, you do it at any time

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you want to because you are not going to control the questions that I ask. You know, these things that you are instructing him to do so far are wrong, clearly, absolutely wrong.
You know, even if there was a privilege, which there is not, but even if there was, when I asked him what documents he looked at, that question he has to tell me what documents he recalls that he looked at. I didn't ask him who showed him the documents. I just want to know what documents he looked at. The fact that he added in there, "they showed me," that you objected to his answer. This is unbelievable. Unbelievable.
MR. SCHEINER: You asked--
THE COURT REPORTER: Wait a minute. This is the court reporter. I can't hear you.
MR. SCHEINER: Ask him what happened, otherwise I am objecting. Go ahead.
MR. HOAG: You mean you are objecting to him telling me anything about any documents that he reviewed in preparation

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for his deposition; is that correct?
MR. SCHEINER: If he reviewed it in consultation with his attorneys, yes.
MR. HOAG: I am not asking him at this moment whether he reviewed any in consultation with anyone. I am just asking him what he reviewed in preparation for the deposition.
THE WITNESS: Well--
MR. HOAG: Are you instructing him not to answer that?
MR. SCHEINER: To the extent that it calls for communication with his attorneys, yes. If it doesn't then he can answer.
MR. HOAG: When he just tells me what documents he looked at, there is no question there about what did anybody ask you, show you or tell you. The question is what documents you looked at.
BY MR. HOAG:
Q So you were saying, sir, that you looked at documents from 1965, '66, '67, '68 and '69. Do you remember what any of those documents were that you looked at, sir?
A Do I remember what they were?

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Q Yes.
A By and in large most of them were notes of the Scientific Advisory Board meetings, the minutes of the Scientific Advisory Board meetings.
Q You looked at the minutes for the Scientific Advisory Board meetings, and how many years worth of meetings did you look at?
A How many years?
Q Yes.
A I would say something in the order of 28, 29 years.
Q So it would go back to when you first started as a consultant up to the time that you retired from CTR in 1994; is that correct?
A That is correct.
Q Did you look at anything after 1994?
A No.
Q Did you look at any documents other than the minutes of the Scientific Advisory Board meetings?
MR. SCHEINER: Objection. I direct the witness not to answer. It calls for attorney/client communication. Vince, if you can answer without referring to communication with your attorney then

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answer.
MR. HOAG: At this point I am not asking you to tell me what your attorney showed you. I am asking you what you saw regardless of how you saw it. What documents you looked at.
MR. SCHEINER: He doesn't have to answer about things that he saw because his lawyers gave it to him or asked him to look at it.
MR. HOAG: Well, I will certify that question again.
BY MR. HOAG:
Q What documents did you look at other than the Scientific Advisory Board minutes, sir?
MR. SCHEINER: Same objection.
BY MR. HOAG:
Q You can answer that question.
MR. SCHEINER: Vince--
THE COURT REPORTER: I didn't get that, sir.
MR. SCHEINER: I asked Vince to tell you and plaintiffs' counsel if he is going to answer or not.
THE WITNESS: I don't think that I am

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going to answer.
BY MR. HOAG:
Q Why aren't you going to answer that question?
A Because all of the other documents involved, the documents which were submitted by the attorneys.
Q More than one attorney, or just one?
A Well, one in particular, or if there were others.
MR. HOAG: Certify the question.
BY MR. HOAG:
Q Did you look at any documents in preparation for this deposition that were not shown to you by an attorney?
A No.
Q So every documents that you used to refresh your recollection to testify during this deposition was provided to you by an attorney; is that correct?
MR. SCHEINER: Objection. Assumes facts not in evidence.
BY MR. HOAG:
Q Is that correct?
A Yes, sir.

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Q Did you specifically select any of the documents that you looked at in preparation for this deposition?
A Meaning me?
Q Yes.
A Vincent Lisanti did not select any documents.
Q You pretty much did what the attorneys told you to do then; correct?
MR. SCHEINER: Objection. Lacks foundation.
BY MR. HOAG:
Q Is that correct?
MR. SCHEINER: Objection. I instruct the witness not to answer regarding attorney/client communication.
BY MR. HOAG:
Q Is that correct, sir?
A That is what my counsel is for.
Q When did they become your counsel, your attorney rather than--let's stop at that. When did he become your attorney?
A When this whole thing started, and as I said, in January or February of this year.
Q At the moment that they contacted you

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to ask you if you would testify they became your attorney; is that correct?
A They didn't ask me to testify. They asked me if I would be willing to review my history with CTR, which may have something to do with testimony at some point, at which point I said--well, I have no objection to that. I need an attorney.
Q At what point did you discuss payment for serving as a consultant for the law firm?
A I believe it was in the latter part of March or early part of April.
Q Who brought up the issue of you being paid to be a consultant?
MR. SCHEINER: Objection. I direct the witness not to answer to the extent that it calls for attorney/client communication.
BY MR. HOAG:
Q Can you answer that question?
A I guess you heard my attorney.
MR. SCHEINER: You can tell him, Vince, if you can, or cannot answer the question, given my direction.
THE WITNESS: It appeared that from the previous contact with these attorneys that I might be involved in a number of law

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proceedings. I believe I asked the question how much time is this going to take. I have other activities that I am involved in. I can't just be dropping things just to run because it happens to be a lawsuit around the corner and that is when the discussion began.
BY MR. HOAG:
Q Did you set the fee that you would receive?
A Yes, I did.
Q How much are you paying the attorneys for their services to you?
A None.
Q They volunteered to represent you pro bono?
MR. SCHEINER: Objection. Assumes facts not in evidence and I direct the witness not to answer.
BY MR. HOAG:
Q I will certify the question.
MR. SCHEINER: It is not to say that it isn't pro bono work in the broader sense. I feel that it is.
BY MR. HOAG:

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Q Dr. Glenn testified in New York that CTR's billings were $11,000,000, I think, last year. That would qualify as pro bono. CTR's payments for attorney's fees. By the way, they did actually testify to that after consulting with the other attorneys Dr. Glenn was able to say how much money was spent for attorneys. You may want to look into that.
MR. SCHEINER: I didn't object to your question about Mr. Lisanti paying his attorneys.
MR. HOAG: You just don't let him answer questions about fees.
MR. SCHEINER: We volunteered to work on a pro bono basis. You asked him what the attorney said to him and you asked him how much they paid him and I did not object. Pay attention to what you're asking and what I am objecting to and maybe you can get somewhere.
BY MR. HOAG:
Q Did the issue of how much you would pay the attorneys ever come up?
MR. SCHEINER: Objection. The question calls for attorney/client communication.

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BY MR. HOAG:
Q Can you answer that one, or do I need to certify that one?
A Sure. I can answer that.
Q Go ahead.
A The answer is no.
Q Have you been paid anything at all so far for working as a consultant for the law firms that you hired to be your attorney?
A Yes.
Q How much have you been paid to date by the lawyer that you said you hired to be your attorney?
A I didn't pay--I didn't--I didn't pay them as my attorney.
Q Right. I know that. How much have they paid you?
A They have paid me a little over $10,000, which were the reflection of the number of days that I had consulted for them.
Q During all of those dates that you consulted for them, were they your attorneys?
A I assumed that they also were my attorneys. They have a dual role.
Q Do you know whether or not they are

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charging anyone for the services that you believe they are rendering to you?
A No, I don't.
Q You don't know one way or another?
A No. I don't know how they are charging it.
Q Do you know that CTR paid approximately $11,000,000 for attorneys' fees last year?
A That is what I heard you just told me.
Q Before I said it did you know that?
A I heard that there was an awful lot of money. I never heard the exact figure.
Q Now, you said you first went to work as a consultant for CTR in 1964; is that correct?
A Yes. October 1964.
Q How did you come to work as a consultant for them in 1964?
A How did that happen?
Q Yes.
A I would say the director of The Institute for Physiological Research In Boston, I was approached--I was first approached by Dr. Hockett, Robert Hockett, who at that time was the associate research director, and I believe his title was, or scientific director in an organization called Tobacco

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Industry Research Committee, TIRC. That was in 1960--the latter part of 1962 or early part of 1963, somewhere in that.
In fact, I had known Dr. Hockett from previous years. First when he was a professor at MIT, hydrate, sugar, and later on he became the director of the Sugar Research Foundation. I had seen him from time to time at various scientific meetings. He asked me if I was interested in taking a full time job with a new organization whose base was in New York City. I told him at that time that I was not interested in any full time job anywhere. I had plenty to do running the institute and doing consultant work that I was doing at the time.
That was the end of that conversation. Soon after that I was--it was a matter of a few weeks, maybe a month, or a month and a half, Dr. Clarence Cook Little called me. I have known Dr. Little from Bar Harbor Research Laboratory in Maine from previous experiences when I was at Tufts Medical Center.
He, in effect, asked me the same question. He said, "I am the scientific director of this organization, TIRC, the Tobacco Industry Research Committee, and we are looking for an

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individual who has research experience and understands the process of grantmanship understanding the process of getting the contracts and carrying out contracts and has a general understanding of research, research activities from a broader perspective. I said yes and he said, but we're interested in an individual to come down full time.
I said Dr. Hockett called me previous to this and I told him that I couldn't come down and he said we'll keep trying and perhaps the opportunity will arise. That was--there was rather a large hiatus after that, several months, and well into the late summer, I believe, or it was late summer of '63.

Dr. Little called me up again one day and invited me and my wife to Bar Harbor to have, he asked me if I would a lobster dinner. I said, "No, I don't eat lobster, but my wife does." He said, "Well, I will tell you, Bernice--that is his wife's name--make a lovely strawberry shortcake. Do you like strawberry shortcake?" I said, "Sure, I love strawberry shortcake." He said, "Well, you can come up for the strawberry shortcake." So we went up.
I don't know if you have ever been up in Maine or not, the Ellsworth and Bar Harbor area is

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an absolutely gorgeous place. We went through the whole proceedings touch and go dinner and conversation and it was very wonderful and very beautiful. I was waiting for the question, which eventually came after the strawberry shortcake, which was, "Hey, Vince, you sure you don't want to take the job?" I said, "Well, I just can't do it. I have too many obligations." He said, "What would you consider?" I said, "Well, the only thing that I could possibly consider would be a consultantship, a part-time relationship, one or two or three days a month, something like that." He said, "Well, we'll think about it," and that was the end of that conversation.
That went on at that point, which was almost a year, and then in 1964, the latter part of the summer, I believe it was either late July or early August, the telephone rings and on the other end of the phone is Dr. Little. He says, "Okay, Vince, what are your terms? We'll accept you part-time." I said, "Well, I haven't thought about it." He said, "Okay, think about it and call the New York office and make an appointment to come on down," which I did.
After I met various people in the

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office and talked with various people, we sat down and a consulting arrangement was arrived at. I actually started my first day as a consultant, I believe, one of the days--I forgot whether it was the first or second week in October of 1964 and that is how it happened.
Q What was your initial agreement as to how many days a month you were working, and how much you were going to be paid?
A It started off at $1,000 a month as a retainer and in effect it would be one or two days a month could be arranged because from time to time they had Scientific Advisory Board meetings that might take two or three or four days consecutively. If it were possible I could bunch them up, the so-called days, or availability time so that it would coincide with the board meeting. I would be in the New York area during the Scientific Advisory Board meetings. It wasn't really named days. It was on a monthly retainer.
Q Does that mean, for example, if you attend five, four, five days of the Scientific Advisory Board meetings you would get $1,000 a month, or would you get more for that month?
A $1,000 plus expenses.

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Q What were the expenses?
A Hotels, food, transportation.
Q Was there a per diem amount or just paid whatever the hotel and food and transportation was?
A Out of pocket expenses.
Q How long did you do that on that kind of a basis, part-time one or two or three days a month?
A Well, this went on with an increasing number of days until about 1975.
Q When you say "increasing number of days"--
A In other words, instead of going down once or twice a month, it started to increase to once a week and sometimes twice a week, and sometimes three days, and sometimes four days. It got to be increasingly--I became increasingly occupied with the activities. By that time it became known as the Council for Tobacco Research and TIRC now had been converted to the Council for Tobacco Research.
Q Why did they change the name of it; if you know?
A I have no idea. I have no idea. When I first went there they were in the process of

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changing it in October of '64, but they were already in whatever legal procedure they were in to rename the Council for Tobacco Research. I actually started in Council for Tobacco Research.
Q When you say that you mean you actually started as a consultant in '64?
A Yes.
Q It was already called the Council for Tobacco Research?
A It was already in the process of becoming the Council for Tobacco Research. Prior to that it was called the Tobacco Industry Research Committee and that was in '63.
Q As you increased the number of days that you worked as a part-time consultant, did your compensation increase also?
A There were--eventually I got to the point where I was getting about $2,000 a month. I can't give you the exact date, but somewhere after two or three years, or four years of this increase to $2,000 a month.
Q Did it ever go higher than $2,000 a month as a part-time consultant?
A It never quite did until we started talking about full time.

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Q Which was around 1975?
A Actually the discussion about coming on full time started in '74, but we didn't get very far. I was a very busy man with a number of other activities and consultantships. We never got down to the cases until '75.
Q Now, the place that you worked you said was the institute for what research?
A Who?
Q The place you worked at in 1964 and probably a lot longer, the institute for some kind of research and I didn't get the word.
A Stomatological.
Q Could you spell that?
A S-t-o-m-o--S-t-o-m-a-t-o-l-o-g-ical.
Q What is that?
A The study of the mouth.
Q So this Institute of Stomatological Research is in Boston where you were a full time consultant for them back in '64?
A For the institute?
Q Yes.
A I was the director of it.
Q You were a full time director, and how long were you a full time director?

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A From the beginning.
Q Which was when?
A 1957, I believe.
Q All the way until you became a full time employee of CTR in 1975?
A Correct.
Q As the director what were your duties there?
A I was directing the research.
Q What kind of research did they do there?
A All kinds of different kinds of research, oral research and inflammatory research, research on barometric changes on tracking submarines and we did research having to do with deity.
Q Stop one second. What was that word?
A Mouthwashes. We got into the diagnostic activities and how you use available non-invasive techniques for diagnosing disease conditions in humans.
Q Is there anything else that you can think of?
A That is a long time ago and they have gone into a lot of different things.
Q Did they do tobacco research?

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A No.
Q Did they do cancer research?
A Yes.
Q What was the nature of the cancer research that they did at the institute?
A Mostly having to do with leukemia and changes in the white blood cells composition.
Q Did you participate in doing any of the research yourself?
A At the beginning, yes, and then as my administrative and physical and consulting duties increased I got further and further away from the bench.
Q During the time that you worked as a consultant for CTR, did you do any tobacco research?
A No.
Q During the time that you worked as a full time employee of CTR did you do any tobacco research?
A No.
Q During the time that you worked as an employee of CTR, whether it was part-time or full time, did you do any research of any kind?
A No.
Q In 1975, run me through it if you

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could, what jobs you received and how you came to receive that job in 1975, the full time job.
A Well, very, very simple. The chief executive officer at that time was Mr. Addison Yeaman and he called me into the office and said, "hey, Vince, you're doing a lot of liaison and monitoring work for us." I had an area around Boston and since that and that was my base. I was doing work with various grantees.
He said, "You're occupying more and more of your time with our activities, attending board meetings and so on. Let's get into a full time business." So my employment agreement was drafted and this went into effect in early 1976, which my primary duties were not to be less than 1,000 hours per year, which would entitle me to the benefits of health insurance and pension and what have you, and at that point definable full time employee of the Council for Tobacco Research.
Q What was your title then for that position?
A Associate Scientific Director, which was later changed to Associate Research Director, and later changed to Associate Scientific Director, and later changed to Research Associate. Then later

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changed to Associate Research Director, and then it was changed again to Associate Scientific Director, and each one of the title changes is meaningless as they are represented the perspective a particular scientific director at the time that the changes took place as associate scientific director.
Q What year did you hold those six names that were basically all the same positions; is that correct?
A All the same positions and the name and the title changes are flip flopped, if any, who did the scientific director was in that particular area.
Q You work for the director, the scientific director?
A That is right. Always.
Q That was from 1975 until 1994 when you retired?
A Yes. My consultant work, I worked for the scientific director.
Q Now, you said that the chief executive officer, when you first were hired full time was named Addison Yeaman. Who was the scientific director?
A At that particular time?
Q Yes. At that particular time.

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A Dr. Gardener.
Q Gardener?
A Yes.
Q William Gardener?
A Yes.
Q Who came after Dr. William Gardener as the scientific director?
A Dr. Sommers.
Q Who came after Dr. Sommers?
A Dr. Glenn.
Q Dr. Glenn now is the CEO?
A Yes. Dr. Glenn now is the CEO.
Q Was he the last scientific director that you worked for; correct?
A I believe that is correct.
Q I understand later on Hyman McAllister became the scientific director when Dr. Glenn became the CEO? Did Dr. Sommers, did he have a medical degree?
A Sommers?
Q Is he a medical doctor? Was he a medical doctor?
A Yes.
Q Dr. Gardener?
A Dr. Gardener was a Ph.D.

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Q So you were still there when Dr. Glenn became the CEO?
A Yes.
Q Just so I understand the chronology, was Dr. Glenn also the CEO and the scientific director both for a while or not?
A No, not as I understand it. He was the scientific director and Mr. Bach was the chief operating officer at that point. Whenever Gerten Bach retired they combined the two positions. Again, they took the jobs as the chief executive officer and the chief operation officer replacing Gerten Bach and Hobbs.
Q Gerten Bach and Hobbs, did they have full time jobs with CTR?
A Well, Gerten Bach seemed to be there every day.
Hobbs came in two or three days a week.
Q So Dr. Glenn took the position that were held by one and a half people and is that basically correct?
A One and one half.
Q Was Dr. Glenn's position a full time or part-time when he took over as CEO and chief operating officer.

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A I don't know what his arrangements are, sir.
Q So Dr. McAllister, who is a Ph.D.; correct?
A He became the scientific director in '91 then; is that correct?
A Whenever that change took place, yes. He was the next scientific director.
Q For the next couple of years he was your supervisor?
A Director.
Q He was your supervisor for a couple of years, Dr. McAllister?
A I guess so.
Q Now, am I using that word correctly, scientific director who was actually your supervisor?
A Yes.
Q Did you attend the Scientific Advisory Board meetings from 1975 to 1994?
A Yes.
Q Were you considered to be a member of the Scientific Advisory Board?
A No way.
Q Were you there, or what were you there as when you attended the Scientific Advisory Board

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meetings?
A CTR staff.
Q What was your role at the meetings of the Scientific Advisory Board meetings?
A One as an observer, and two as a resource, and three to answer questions in case any of the Scientific Advisory Board members asked one.
MR. HOAG: It is 12:30 now. This is probably a good time to take a break. It's going to take me a few more hours anyway to finish up. I am not going to take two days or three days in a deposition like the one you are still in, but I am still going to be a few hours.
MR. SCHEINER: Can I ask this, we have lunch here. I'm sorry that we can't offer you any because it's a hell of a lunch and I will tell you that we have it all to ourselves. We want to know if it is all right to feed Special Agent Tendy here.
MR. HOAG: He is neutral and he can eat with you.
MR. SCHEINER: She.
MR. HOAG: She can eat with you guys as long as she observes and makes sure that

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there is no passing of anything inappropriate, or any inappropriate behavior that goes on. She doesn't need to tell me who put the mustard and stuff like that, though. That is perfectly fine for her to eat lunch.
How about we try to come back at--
MR. SCHEINER: It is totally up to you. If we take ten minutes to get our food together, it is really up to you.
MR. HOAG: I need longer than ten minutes. Let's say more like 45 minutes. 1:15.
MR. SCHEINER: Okay.
(Thereupon, a recess was held for lunch.)
BY MR. HOAG:
Q Doctor, we are back from the lunch break. Let me just back up to what we were talking about before, which was the position, the full time position that you accepted.
MR. SCHEINER: Mr. Hoag, I should have said this before, I would like to get something very brief on the record that has to do with the location of the court

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reporter. I have learned that it is our understanding and agreement with your firm previously any telephone depositions, the court reporter, or at least one court reporter is recording things would be present with the witness because of the problems with transcription problems resulting from the telephone connections in the past.

I am not going to interrupt this deposition to deal with that, but in the future we are going to insist that if there are future telephone depositions that you have a court reporter wherever the witness is. That is it.

BY MR. HOAG:

Q Doctor, when we were talking about the position that you accepted beginning in 1975, one of the things that I didn't ask you was what was your initial beginning full time salary. Can you recollect what that was?

A Yes. $36,000, plus ten-percent pension. Ten-percent allocation for pension.

Q Over the years your salary increased; correct? Did your salary increase over the years?

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A Yes.

Q What was your last salary that you had, full time salary, before you left in 1994?

A $90,000.

Q How much?

A $90,000, which included the pension benefits and so on.

Q $90,000 plus a certain percentage in addition to that as a pension benefit?

A That was the total that included what had been previously deducted for pension contribution, so the total sum, the gross was $90,000.

Q During that time when you were a full time employee of CTR, did you have any other consulting work that you did on the side?

A Yes.

Q Was any of that consulting work tobacco industry related?

A No. Not at all.

Q Approximately what percentage of your time did you spend on your outside consulting work during the time that you were a full time employee of CTR?

A Between 1,000 and 1,500 hours per year.

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Most of the time it was more CTR and the rest of the time, you know, whatever there is, 24 hours, I consulted for pharmaceutical companies and the Veterans' Administration.

Q What did you do for the Veterans' Administrations?

A I was ia consultant at the central office, Medical Affairs.

Q What did you consult with them about as far as the Veterans' Administration central office?

A Care, allocation of professional manpower, development of research programs.

Q Do you own any shares of stock in any tobacco company?

A Not unless the pension fund does.

Q You don't know whether the pension fund does or not?

A No, I don't go through their funding. the TIA Crest, Teachers Insurance Annuity Crest.

Q Do you own any part of a tobacco farm?

A Of a what?

Q Tobacco farm?

A No. I am not a farmer. My wife has a little garden outside. She grows tomatoes and cucumbers and it is a patch four feet wide and ten feet long.

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Q She doesn't grow tobacco?

A No, no tobacco.

Q I only asked you that because Dr. Glenn is a tobacco farmer.

A Oh, that is nice.

Q Did you know--

A He grows horses and cows.

Q Did you know that Dr. Glenn is a tobacco farmer, among other things?

A I found that out later on, and only recently did I know that.

Q How recently?

A I always identified him as a great urologist and educator and administrator, but I guess it was in the early '90s he came on board that I was still at CTR that I found out that he had a tobacco farm in Kentucky, or at least he was growing tobacco in addition to other things.

Q Did he tell you about that?

A I don't recall whether he told me, or somebody else in the office told me, but later on he and I kicked the idea around. I said, "How the hell can you be a tobacco farmer and take care of human plumbing."

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THE COURT REPORTER: I didn't get that, sir. Human--

THE WITNESS: Plumbing.

THE COURT REPORTER: Thank you.

THE WITNESS: That is what takes care of the urine.

BY MR. HOAG:

Q Well, that's because he was a urologist?

A That is what he is.

Q What is the relationship between tobacco and urology?

A I don't know. You're asking the wrong guy.

Q Do you think it creates a conflict of interest for Dr. Glenn to own a tobacco farm and also run the Council for Tobacco Research?

MR. SCHEINER: Objection.

THE WITNESS: My opinion?

BY MR. HOAG:

Q Yes.

A No. I don't think it is a conflict of interest. I think he had a tobacco farm before he had anything to do with CTR.

Q Do you know how long Dr. Glenn had the

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tobacco farm?

A No, I don't. Everybody in Kentucky grows tobacco, like North Carolina, and as a matter of fact, the northern part of Florida where you guys are is tobacco country area in the Panhandle. I used to live there. I know they grow tobacco there.

Q Do you know how many acres of tobacco Dr. Glenn grows?

A No. I have no idea.

Q Do you know how much money he makes from growing tobacco?

A No idea.

Q Does it matter to you how much he makes in tobacco?

A I hope he makes at least $11,000,000 so that he can pay the bill.

Q You are referring to the attorneys fees bill?

A Sure.

Q For CTR?

A Yes.

Q That is what you said, $11,000,000. Do you believe if he made $11,000,000 he would give it to CTR to pay their legal fees?

A He probably would end up paying his own

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fees. I don't know. I don't see how these questions have any relevance to what you want to ask me about my experience, so why don't we get to my experience.
Q Well, Dr. Glenn was your CEO for the Council for Tobacco Research during the time that you worked there.
A I don't see what his farm has to do, or how much money he earns, or anything else along those lines has anything to do with my interaction with Dr. Glenn during the period that I was there. If you can clarify that then I would be happy to answer any direct questions, please.
Q Did Dr. Glenn supervise you directly?
A Yes.
Q During what years was he your direct supervisor?
A He was the scientific director and I reported directly to him.
Q What years was the scientific director when you reported directly to him?
A I can't give you the exact years, six minus seven, eight, dah, dah, dah, dah, and this is '97 so--'89--I would say in the late '80s. I can't give you the exact date. I think in the late '80s. Maybe up to '90. I don't know exactly. That is the

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era.
Q What was the nature of his supervision, and by that I mean, what did he direct you to do, if anything?
A He didn't direct me to do anything. We already had our assignments, which we had not changed, as far as I was concerned, in many, many years since I went full time. That was that I was a monitor for individual grantees which were assigned by the scientific director with the rest of the staff. The associate scientific director who would assign various grants after they had been awarded and funded to the staff for monitor services. So that was one of the kinds of assignments that he gave.
Like occasionally there would be a request from the Scientific Advisory Board to do a site visit, and Dr. Glenn might ask me to go on a site visit as previous scientific directors had done.

They were sometimes--sometimes there were problems at various institutions concerning the administration or the performance of grant activities or accounting reports from the financial department from the academic institutions, and Dr. Glenn or whoever happened to be appropriate at the time, it

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could be the financial officers, but the doctor would ask me to check it out and find out and see if I could help straighten it out, or whatever the problem was.
Occasionally we would get a telephone call from the grantees, or outside potential applicants for grants that he might ask me to handle one of those. So those were the kind of things that kind of--the kind of interaction that I had with not only Dr. Glenn, but all the scientific directors all from the very first day I became a consultant.
Q I know you already told me that you attended Scientific Advisory Board meetings. Did you ever attend any Board of Directors meetings?
A Yes. Occasionally.
Q When you say "occasionally," how frequently are you talking about?
A I attended the Board of Directors meetings when I was invited to do so. Usually the invitation came because they had a particular speaker giving a scientific presentation at which point I would be invited, not only me, but the rest of the scientific staff would be invited to attend the board meeting when the presentation was going on. Occasionally there were discussions going on

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concerning the activities and usually these presentations concerning the activities of CTR were made by the scientific director and chief executive officer. So at that point the meeting would close up and the staff would leave.
From that point on I don't know what happened behind closed doors in the Board of Directors meetings.
Q You said that Addison Yeaman was one of the people that at one point was the CEO?
A Correct.
Q Do you know what job he had prior to the CEO for CTR?
A Yes. I believe he was a counsel--I don't know what his exact title was. I think he was a GP or general counsel for Brown Williamson. Don't hold me to that title. He worked for Brown & Williamson.
Q Now, the Board of Directors of CTR who comprised the Board of Directors? What are the individuals who were on the Board of Directors?
A The principals of the company, the company representatives, the Board of Directors. The chief executive officer on the Board of Directors of the company that made contributions to supplying the

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funds for CTR such as Philip Morris, RJ Reynolds and American Tobacco and Lorillard and Brown & Williamson, et cetera, et cetera. They all served on the Board of Directors?
A I beg your pardon?
Q They all served on the Board of Directors?
A Yes.
Q Was it the CEO of each tobacco company who was on the Board of Directors?
A Yes.
Q Was anyone other than the CEO of each tobacco company on the Board of Directors?
A I can't answer that question, but they usually attended with company counsel, their company attorney, so once in a while they came alone, and sometimes they came with their company counsel.
So sometimes there was one representative and sometimes two representatives from at least at the board meetings that I was able to look in on, that is the way it looked to me.
Q They decided to hire a CEO; correct?
A Well, I assume. I assume.
MR. SCHEINER: If I could state on the record if I just say objection he can

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answer. If I want to direct him not to answer I will do so. I will just object to preserve objections to the form. If you want me to say more let me know.
MR. HOAG: Well, I don't think speaking objections are necessary. Objection to the form is fine whenever you feel it is necessary.
MR. SCHEINER: I am just going to say objection. That is it.
THE WITNESS: What was your question now?
BY MR. HOAG:
Q I don't think I had a question pending. I was asking you general questions about how the CEO was selected and you said that you you assumed the CEO is selected by the Board of Directors; correct?
A That is correct.
Q What year was Addison Yeaman hired as the CEO?
A Oh, boy. Seven--I think early '70s, '72, '73 or somewhere in there because it was with Addison Yeaman that I came to the full time employment agreement that he was the CEO at the time.
Q How many years did you remain the CEO?

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A Let's see, one, two, three, four, five--I think it was six or seven years or something like that. It was a little longer, but six or seven years.
Q He was an attorney; correct?
A Yes. He was an attorney.
Q Was he also a scientist, or just an attorney?
A As far as I know his degree was in law. He was an attorney.
Q Prior to that had there been any attorneys who were CEO's of CTR?
A Yes. Mr. Henry Ram. He was from--I believe RJ Reynolds. Right. Right. Henry Ram.
Q What did he do for RJR before he became the CEO of CTR?
A I don't know the exact title. I assume the general counsel, or vice president in charge of legal affairs, or something of that sort. I never did inquire nor find out. I know that he worked for RJ Reynolds just prior to Yeaman.
Q Approximately what years was that, if you can recall?
A I can only guess. Late '60s--late '60s or early '70s.

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Q The late '60s until Yeaman took over, around '73; right?
A I think so. I think early '70s.
Q Were there any other attorneys that were the CEO for the Council for Tobacco Research?
A Let's see--let me try to scratch my brain here. I can't think of any other--yes, excuse me. There was not a CEO, but a COO, Gerten Bach, Gerten Bach was an attorney as well as an accountant.
Q What were the years that Gerten Bach was employed full time at CTR?
A I don't know the exact years, but I am going to say that it goes back to the late '80s, or the middle to late '80s.
Q Do you know who he worked for prior to the time that he worked for the CTR?
A I beg your pardon?
Q Did you know who he worked for prior to the time that he worked for the CTR?
A If he worked before that. At the time at CTR and he was not the chief executive officer, but the chief operating officer.
Q What is the difference between the two?
A The chief executive officer happened to be Mr. William Hobbs who was not an attorney. You

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asked me who were attorneys and I was giving you attorneys.
Q What is the difference in the role of the chief operating officer as compared to the chief executive officer?
A I guess one has more power than the other. I don't really know in this case. The chief executive officer is the guy who can sign off on things and has the responsibility for the operations and the chief operating officer has the responsibilities for carrying on duties from day to day, and year to year, and month to month. That is the way I see it.
Q Now, the CEO, who does the CEO hire, if anybody?
A The CEO, who he hires?
Q Yes.
A The administrative staff, and I guess he has a say in the scientific staff along with the scientific director, and any other service or personnel that may be required to operate the office and the logistics necessary to carry on the day-to-day activities of the handling of grants and payments.
Q Does he have anything to do with the

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selection of the Scientific Advisory Board members?
A I doubt very much that he does. I certainly--certainly would be within his scope to ask questions about them. The Scientific Advisory Board members, as far as I know, were selected by, and recommended by the scientific director initially in the case of Dr. Little, when I first started there, and then it seemed to be a kind of recommendation and search committee kind of situation as board members left or retired and new board members came on board.
Q Now, it is my understanding that at the time, and tell me if I am right about this, but it is my understanding that there are three different types of research programs. One was the Scientific Advisory Board that made decisions about funding certain grants.
Another one was the contract and the third one was the special project; is that correct?
A Now, you have to rephrase the question because I forgot the front end of the question.
Q Let me break it down.
A Let's do that.
Q Have you ever heard of special projects?
A I beg your pardon?

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Q Special projects for CTR. Do you know what they are?
A Yes.
Q What are they?
A Special projects for CTR--I need the definition of special projects. Special projects late? By early and late I mean special projects that were initiated under Dr. Little, or the special projects that later were initiated by attorneys for the outside?
Q I would like to know about both, so let's start with chronologically what you can recollect from the beginning on special projects. What is your first recollection of special projects and how they work?
A Okay. Special project came into being--the term special project came into being by Dr. Little, the scientific director, the first scientific director from time to time and after reviewing the program of grants that were available, or that had been awarded. His position as scientific director is to take an overview of the scientific community to make sure that the science was high caliber, up front and leading somewhere, and particularly with cancer, with heart disease, with

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pulmonary problems.
He would get the staff together and the first move would be to get the staff together and discuss with the staff. It is possible that we're going to get into these kinds of grants. He would name it, and usually these were grants which had to fill a gap that Dr. Little saw in the scientific charge that CTR had in carrying out its activities. He usually has some very hard questions.
For example, is it possible that we'll ever get a grant about designing a smoking machine, and the answer was no. Well, we are going to need a smoking machine somewhere down the line, says Dr. Little, because the grantees are going to be asking about one. We don't have one that we can recommend. There aren't any out on the market. Maybe we ought to get people to look into the question of smoking machines.
Another question that would come up is we need--these people are going to ask what kind of cigarettes to use for the study and the question would come up about why didn't you go out and buy them. Well, you can't go out and buy them. The one you buy today may not be exactly the same as the one you buy tomorrow.

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The cigarettes are produced in batches and bearing the crops that were seen in three to five years previously you need some type of cigarette standard and is it possible we'll ever get the resources to get the standardized cigarette, and the answer was no. Well, we better go out and look for somebody that might give us some advice on that.

The question would come up on various other programs ranging from pieces of equipment, or for example, during the early days the use of cigarette condensates was very popular in some of the scientific communities. Some people were using it for various types of research. Now, where do you get the condensates? Nobody knows where you get the condensates. We had to find out. So finally we find a contractor who had the time, willingness, and the equipment, and so on to produce a cigarette concentrate.

These are special little jobs that were called special projects by Dr. Little. Dr. Little, sometimes he would ask for consulting advice and that would be a specialized area that was considered a special service, or a special project. After he decided what to do and where he might go to get the services, he would then inform the Scientific

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Advisory Board without necessarily getting their vote, because he had, as scientific director, had privileges of expending up to $5,000 without general approval on most of these things.

So those were the beginnings of special projects and those were in the '60s, and then when I walked in I didn't know what special services special projects was. That is what it was.

Later on--and he also determined that these special services or projects be accounted for separately so that he Scientific Advisory Board knew how much money was being spent from the budgets so that there was a special account set up called Special Project Account.

Later on, as I understand it, the attorneys outside of CTR began to bring in projects which were funded separately, I presume, from the industry that were to be administered by CTR. These special administrations and funded deposited in the special projects fund that Dr. Little had previously established.

The second type of special projects that I am addressing, and this special project type was not approved by--necessarily reviewed or approved by the Scientific Advisory Board. CTR's role, at

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that point, simply was to administer the funds. So those are the two types of special projects that I have become aware of all during the period that I was an employee.

Q Now, Dr. Little, was he a medical doctor?

A No. Ph.D.

Q What was his Ph.D. in?

A He was in biology and he was a world famous recognized geneticist in cancer research as well as a pioneer to set the American Cancer Society before it became known as the Cancer Society. He was the head of the committee on growth, the predecessor to the American Cancer Society. He was the former president at the University of Michigan, and former president of the University of Maine.

He was the initiator and pioneer at Bar Harbor Laboratories in Maine and world recognized all animal geneticist.

Q His time where he was starting these one type of special projects that you already talked about, that would have been in the '60s, or was it in the early '60s, or mid '60s, or can you recollect?

A I can't talk about anything before 1965 when I really, you know, sat down at CTR. So I

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became aware of it in '65 and '66.

Q Then sometime later outside attorneys began to bring in projects to CTR; is that correct?

A As I understand it, yes.

Q Those outside attorneys were attorneys from where?

A Well, I can't give you the exact location. Now, I only know of one or two of them. I know one or two represented tobacco companies, or a tobacco company, one or more. One in particular was Philip Morris, and another one, as I recall, was from RJ Reynolds.

Q What was the name of the person from Philip Morris?

A Alec Holtzman.

Q H-o-l-t-z--

A Yes.

Q (continuing)--m-a-n?

A Yes.

Q Who is the attorney that you recollect from RJR?

A I am trying to think who it was now. It was an assistant to Mr. Ram. It wasn't Mr. Ram. It was an assistant to Mr. Ram. I can't remember his name, but I can remember the company.

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Q He was the person that was the assistant to Mr. Ram when Mr. Ram worked for RJR?

A That is right.

Q He then became, or he was an attorney who did special projects, or worked on special projects for RJR, which were done through CTR?

A I don't know. I didn't--I don't agree, nor can I confirm one way or the other your phraseology that these people worked for those companies. I don't know what their duties were inside the company. I know that these were the people who brought the special projects to CTR.

Q Now, the person working for RJR who was the assistant at one time to Mr. Ram, when Mr. Ram worked for RJR, what was his name?

A I can't remember. I probably, that is a long time ago. I suppose if I look at a list I might name--the name might stand up and kick me in the face. I can't remember right now.

Q Approximately what year did those begin, those special projects that were brought in by the attorneys for tobacco companies?

A I became aware of them in the late '60s and early '70s. I don't know how long they had been going on before that. I have no idea.

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Q Were you ever asked to consult or provide any advice concerning any of those special projects that were brought in by the tobacco company attorneys?

A I was not advised--I was--my advice was not requested, nor did I consult for it.

Q To your knowledge did anyone who worked for CTR directly ever advise or consult you regarding the special projects that were brought in by attorneys for the tobacco companies?

A The only ones that I was aware of who I was told about the projects or the proposals was the scientific director.

Q Who told you that?

A The first one that told me that was Dr. Gardener.

Q Dr. Gardener was the first scientific director who told you that one of the things that he did was read the special projects proposal brought in by attorneys for tobacco companies?

A That is right.

Q Approximately what year was that?

A My goodness--late '70s.

Q So if that was the first time that anyone mentioned to you that the scientific director

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had been involved in reviewing any of the special projects?
A The first time a direct remark was made concerning the scientific director.
Q Now, did anyone else tell you later that they, as the scientific director, or any other scientific director, reviewed the special projects that were brought in by attorneys for the tobacco companies?
A Not directly. I assume they were. I have no idea.
Q Did Dr. Gardener explain what his role as a reviewer was?
A No.
Q Do you know whether or not Dr. Gardener had any veto power over these special projects?
A I have no idea whatsoever.
Q When you say the attorneys brought the projects over, what do you mean?
A Repeat that question.
Q My understanding is you were telling me that the attorneys from the tobacco companies brought these special projects to CTR?
A That is right.
Q How did they do that?

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A They walked in the door with a piece of paper, I assume. I never saw the process.
Q Well, what was the process?
A I don't know.
Q You consistently attended Scientific Advisory Board meetings; correct?
A Yes.
Q Were the special projects ever brought up before the Scientific Advisory Board?
A No.
Q Not even once, to your knowledge?
A Not as far as I know, until it was in the late '80s, I believe, or the early '80s where I am trying to think who it was--I think Dr. Gardener, or Sommers, or maybe both informed the board what special projects did exist, and these were separately funded, and these were separately administered and had nothing to do with the activities of the Scientific Advisory Board. That was the first time I heard it from--personally heard it in the presence of the Scientific Advisory Board.
Q The first time that you heard the mention of special projects at the Scientific Advisory Board?
A Not until that point that I was aware

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of.
Q How did it come to be mentioned during that time; if you know?
A I am trying to think of circumstances. I don't remember the circumstances, or why it was brought up. I am--either I am drawing a blank, or I can't remember, or I just--I can't remember. I do know--I do remember they discussed it, or there was a discussion to inform the Scientific Advisory Board.
Q Were the special projects CTR funded research?
MR. SCHEINER: Objection.
BY MR. HOAG:
Q You can answer.
A I will. These were not CTR funded. These were CTR administered.
Q What is the difference between CTR funded and CTR administered?
A Money came from outside and did not come from the CTR budget.
Q When you say it came from outside, what do you mean?
A Outside of the CTR budget.
Q So the special projects was not part of CTR's budget?

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A Not at all.
Q Who controlled the funds for the special projects?
A I don't understand what you mean by "controlled."
Q Who decided how the funds were going to be spent for the CTR projects?
A That was decided in advance when the proposal came in, and I understand the proposal--I am hypothesizing. That is all I am going to do. I don't--I have no idea.
Q What is your hypothesis?
A This is going to cost 100,000 bucks and CTR is going to administer $100,000 and it would go in the special project fund, and based upon the agreement, the money would be paid out of the special funds to the individual institution where the special project was being carried out.
Q What did that administration involve?
MR. SCHEINER: Objection.
BY MR. HOAG:
Q What did that administration of the special projects involve?
A Writing checks.
Q Did it involve anything other than

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writing checks?
A Well, I think from time to time they received project reports, progress reports.
Q What do you mean by project or progress reports?
A Well, both project reports or progress reports of what you have done in the last six months, and what did you do in the last year, and from time to time I presume publications result from the activities, so reprints and manuscripts were probably filed.
Q Who paid for those special projects?
MR. SCHEINER: Objection.
BY MR. HOAG:
Q You can answer.
A I presume that the companies paid for the special projects.
Q When you say "companies," who do you mean?
A Now, come on, let's not play footsy. We are talking about the tobacco companies.
Q Who was the CEO at the time that the special projects became the projects that were brought in by the tobacco company attorneys?
A I don't know when it began and I can't

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answer that question honestly.
(Thereupon, a recess was held.)
BY MR. HOAG:
Q We took a brief break and we are going to resume the questioning now. I have asked you some questions about special projects. Now I want to, at least for the moment, to contract.
A All right.
Q Is there a difference between a grant and a contract?
A Yes.
Q What is the difference?
A A grant is an application that comes in generated by an applicant investigator and it is his own idea and his own working hypothesis and his own estimates and his own projections as to its importance. That comes in, and if it is approved by the board and funded, he gets a grant. Once he gets the funds administered by this institution, he is free to do anything he wants. He can publish or he doesn't have to publish. He conforms to the policy to the institution in which he works and that is all--that is all that is required of him.
The contract, in contrast, is a job to be done, proposed by an agency which has the money

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that wants the job to be done. It, in effect, designs the protocol or the procedure or a job description of what they want done. They estimate certain time periods and certain milestones that have to be accomplished, whatever they may be. They estimate what the thing should cost. Then they go out and find a job shop organization that is willing to take on this particular job, this particular performance.

Then they sit down with the potential contracting party and they come to a final proposal starting with the initial proposal. They come to a final proposal with the contracting party who is going to get the contract award. That becomes a fixed protocol, which in effect, was originally generated by the granting organization, in this case CTR. In this case generated and usually stimulated by the scientific director and the contents and the results of that particular contract. Once it is completed, is proprietary owned entirely by the organization that paid the bill. It has the right to publish, or the right to not publish. It has full ownership of the contents and results of the contract activities. Otherwise stipulated in the contract agreement. These essentially are the two major

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differences between the grant on the one hand and the contract on the other.

Q Does the contract, do they go through, or did they go through the Scientific Advisory Board?

A Yes. The contract is awarded or stipulated by either the staff or the scientific director and had to be voted upon by the Scientific Advisory Board.

Q How was it decided whether or not to publish the contracted information or not?

A I have no idea how that is decided upon, but I know at that time that the contract that I had when I was at Tufts, or the office of Naval Reserve, United States Air Force, two government agencies, they decided, for whatever their reasons, decided whether it was publishable materials or not.

In particular with the pharmaceutical company when I had a contract with a pharmaceutical company they retained the rights to publish or not publish. If they approved a publication, or requested a publication to be published, it was generated by the original office and the original people that did the work and the knowledge of the support was attached to the publication.

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Q Do you know if there was acknowledgment of support attached to the special projects, if anything from those projects was published?

A I did see one or two publications which did have acknowledgments down in the area and usually attached to where the bibliography is, or sometimes on the first page, which is indicated that there would--this was a special project awarded by the Council for Tobacco Research and it was so stated.

I don't know about all of them because I never did see all of them. I only saw one or two.

Q You stated that was a special project, or what did you say? I missed it.

A The special project awarded by the Council for Tobacco Research.

Q Was that the disclosure that was on, or supposed to be on all special projects that were published?

MR. SCHEINER: Objection.

THE WITNESS: I don't know if it was on all of them or some. I saw one or two. I can't vouch for all of them because I never did see all of them. I don't know what all of them represent.

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BY MR. HOAG:

Q Which ones did you see?

A I saw the one from Dr. Hickey and I think one was from Dr. Sterling. I think those were the only two that I saw a reprint of. I can't--I can't be specific and I don't remember what the hell the subject matter was, but I recall seeing that acknowledgment.

Q The word "awarded," what does that mean?

A Now, let's not quibble. Where the money came from.

Q So awarded is the same thing as where the money came from?

A Yes.

Q Did the money for the special projects come from CTR?

A Administered by CTR. So from a point of view of the institution or the individual receiving that, I guess you could say that it came from the CTR.

Q The reality was it came directly from the tobacco company?

MR. SCHEINER: Objection.

THE WITNESS: I don't know what reality

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you're talking about. All the money that came from CTR came from the tobacco companies.

BY MR. HOAG:

Q CTR did not fund the special projects?

MR. SCHEINER: Objection.

THE WITNESS: You have got to define that. I don't know what you mean when you ask that question.

BY MR. HOAG:

Q It is okay. You already answered anyway.

Were the special projects, were they a form of a grant?

A I don't know what form it was. I never saw one.

Q Do you know whether or not the people who did the special project research applied to do the research or were solicited by the tobacco industry to do the research?

A I have no idea. I don't know which came first in this case. I just know about the chicken and the egg. It wasn't a chicken. It was an egg.

Q Were the CTR special projects

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completely autonomous?

MR. SCHEINER: Objection.

THE WITNESS: Define what you mean by "autonomous."

BY MR. HOAG:

Q Well, autonomous I mean free from the influence of the tobacco industry.

A I don't know that. I cannot answer that question. I have no knowledge one way or the other.

Q Do you know that the tobacco industry attorneys would bring in the special projects to CTR?

A That is what I was told.

Q Who told you that?

A Attorneys.

Q What attorney told you that?

A Alec Holtzman.

Q He was the attorney for Philip Morris?

A That is correct.

Q When did he tell you that?

A Let me think of when it was. I think the late '60s, or somewhere in the late '60s or early '70s. Somewhere in that time frame.

Q Now, you named or you said that there was another person that you recollect that worked for

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RJR. You didn't remember his name.
A Assistant associate of Mr. Ram.
Q Did that attorney that worked for RJR also tell you the same thing?
A No. I never talked to him.
Q Now, did you become aware that that attorney brought in special projects to CTR?
A I have forgotten. I think it was Dr. Gardener.
Q Dr. Gardener is the one who told you that?
A Yes. The scientific director.
Q Dr. Gardener was the scientific director for CTR at the time that you were told that?
A Yes.
Q When do you first recollect the contract being used as a form of soliciting research by CTR?
MR. SCHEINER: Objection.
THE WITNESS: Early in my consultantship, early '60s, and there was a question on a part of Dr. Little and Dr. Hockett, the associate scientific director and the director of research and he evaluated some smoking machines because at

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some point in the future Dr. Little knew that smoking machines might be used, or would have to be used to expose experimental animals to cigarette smoke.
There was no place that you could go, or an equipment house to buy a smoking machine. Apparently there was a number of smoking machines developed by individual investigators around the country and they were used in their individual work, their own individual studies.
So Dr. Little said we ought to try to get those machines together and put them in one place and have them evaluated and find out what the specifications are to see if they meet specifications, and run them to see if they are accurate, and see how rugged they are, and how easily they break down, and how they can be maintained and how they can be repaired, et cetera, et cetera.
He said, "Vince, why don't you go out and find us an institution or an organization that might want to do that" and I did. I went out and I saw Mason Research in Worcester, Massachusetts, a medical

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research institute that did contract research for the United States Government, the National Institute of Health and the National Cancer Institute and the National Institute of Health.
So I went to talk with the people at Mason Research and they said that they had never done anything like this, but they certainly would tackle it. Eventually a job description, if you will, evolved and a contract was given, the first contract that I was aware of, the contract was given to Mason Research to evaluate the available smoking machine and make recommendations and write a report.
Dr. Little approved it and the Scientific Advisory Board was informed of it and approved it, and the contract was carried out.
So that was my first exposure to contracts.
BY MR. HOAG:
Q Were there ever any grants that were changed over to contracts?
A Grants changed to contracts? Not that

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I can remember.
Q Well, do you recall,or let me try to refresh your recollection. Do you recall whether Dr. Homberger ever had a grant moved from a grant to a contract?
A He had both. I don't know whether one was to move from another. I know that he had both. He had both grants and he had a contract.
Q Now, the hamster inhalation experiment that Dr. Homberger had, were those grants or contracts or both?
A The hamster inhalation contract?
Q Was that a contract or a grant?
A I believe that the inhalation experiment was a contract. I can be corrected on that, but I believe it was a contract.
Q Were there ever any inhalation experiments that were not contracts?
A There were quite a number of people doing small, short-term inhalation studies. What the Scientific Advisory Board calls acute studies done with grants. These people used a Walton Smoking Machine as the result of a contract with Mason and other contracts to develop a smoking machine. So that yes, other people had done short-term inhalation

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experiments in the branch program.
Q Were there any long-term inhalation programs that were contracts?
A Yes.
Q Were there any long-term inhalation programs that weren't grants?
A No. Not that I know of.
Q Do you know why?
A No, I don't know why.
Q Did anyone ever apply for a grant or a long-term inhalation program?
A Not that I remember. This is quite an investment, quite a fund and investment. Anybody that wants to get into that--
Q Well, a short-term inhalation project wouldn't be likely to yield any conclusive results because of the fact that they were short-term; correct?
MR. SCHEINER: Objection.
THE WITNESS: It all depends on what you mean by conclusive.
BY MR. HOAG:
Q Smoking, or any disease caused by tobacco smoke, for example.
A Like what?

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Q Like any disease caused by the tobacco smoke, a short-term inhalation project wouldn't be able to accomplish that, would it?
A Give me the disease.
Q Any disease. Is there any disease that you can think of that a short-term inhalation project would accomplish, a goal to see whether or not tobacco smoke caused disease?
MR. SCHEINER: Objection.
THE WITNESS: Well, if you mean coughing and sore throat, the answer is yes. That could be done in a matter of days.
BY MR. HOAG:
Q Does that tobacco smoke cause coughing and sore throat?
A Sometimes people get irritated.
Q Is that established during the short-term inhalation project?
A No. I am giving you that as an example. You asked me for an example and I gave you an example.
Q What about cancer of any kind?
A No.
Q How about heart disease?
A No.

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Q Emphysema?
A No.
Q In order to really do an experiment like that you would need a long-term inhalation study; correct?
A That is correct.
Q For some reason there was never any long-term inhalation project grants; correct?
A No applications.
Q Did Dr. Homberger ever apply for a long-term inhalation project grant?
A Not that I know of. I know that he got a contract.
Q Do you know whether or not Dr. Homberger did hamster inhalation experiments that were at least initially under a grant?
A Could well have been. I can't give you a specific answer because I don't remember the specific grant and the contract that Homberger had. I guess if I lay it on the table, I might be able to identify them, but right off I can't give you an answer.
Q Did you have anything to do with working on any of the projects that Dr. Homberger worked on?

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A I visit him from time to time when I am instructed to do so by Dr. Little, offhand, or Dr. Hockett.
Q When you say "visit him," where did you visit him?
A When or where?
Q Where?
A Where? In Cambridge, Massachusetts.
Q Did he have a laboratory there?
A Yes.
Q What was the nature of your visit, what was it about?
A The nature of what?
Q The visits that you were instructed to take on occasion by either Mr.--
A The grant and contracts that I should go and see how things were going and see if there was anything that I could do, or report back to the office that could be helpful.
Q Did you do those reports?
A Did I do that report?
Q Yes. Did you do the reports like that?
A Yes, I did.
Q Were they in a written form?
A I informed Dr. Little and Dr. Hockett

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and later on when Dr. Gardener came on board I informed Dr. Gardener.
Q Did Dr. Homberger have an occasion to submit data to the CTR on the effects of smoking exposure in approximately 1969?
A Yes.
Q Did Dr. Homberger conclude that the data indicated the hamsters were contracting what he believed to be cancer, or precancerous conditions in the larynx.
A I believe that is what he said.
Q Did he call them precancer or cancerous conditions in the larynx?
A He used both terms.
Q What, if anything, did CTR or anyone at CTR say in response to his conclusions that it showed cancerous or precancerous conditions in the larynx of the hamsters?
A Well, let me give you the story in a short form. When that information came to CTR. Dr. Gardener informed the Scientific Advisory Board and the Scientific Advisory Board recommended that the visitation committee be formed to go to Dr. Homberger's laboratory, visit the laboratory for a possible look at the animals, and if possible, look

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at the pathology section for which he was making these particular conclusions.
Such a committee was formed that was composed of Dr. Gardener, Dr. Jacobson, Dr. Sommers and I went along as well. I went along as a monitor. When they arrived--we arrived there we were introduced to the bio research consultant. That is the profit-making side of Dr. Homberger's operation.

We're in the room with two or three microscopes and microscope projector and boxes of slides at which point Dr. Homberger and his associate director, Dr. Bernfield, made a presentation concerning the hamster inhalation experiment.
Then they asked us as a committee--not me, but the committee, if they wanted to look at the slides, which they did. So the slides went down the line and Dr. Gardener got some slides and Dr. Sommers got some slides and then they would exchange slides looking at it. Dr. Homberger pointed out what he thought would be various lesions, and then a great discussion ensued. He would not--I would not call it an argument. It was a real heated scientific discussion.
In effect the discussion was is this

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really cancerous and precancerous and there was a great deal of difference in the various parties here.

Now, in Dr. Sommers, he recognized the human animal pathology and is an expert and he was considered one of the best in the United States. He claimed that he did not see cancer lesions in the slides that were presented. He claimed that he saw all kinds of inflammation, and saw all kinds of hypertrophy, and saw all kinds of metaplasia, but he didn't see what he called cancer.
To use other words, Dr. Gardener, he came to a similar conclusion, at least from the position that he was in. He said he had some doubts about certain lesions, but overall he had seen--the stuff that he had seen could not be considered to be what Dr. Homberger indicated, cancerous lesions.
That was the point where by that time they had considerable amounts, consumed a considerable amount of the afternoon and the way it was left it was brought back to the Scientific Advisory Board and it would proceed from there.
Some of that was my participation in the site visit to Dr. Homberger as requested by Dr. Gardener and the Scientific Advisory Board. Into

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this Question 1 and 2, to look at the data section from the animal represented data as to what Dr. Homberger had reported.
Q Had there been any inhalation studies prior to Dr. Homberger's inhalation studies, long-term studies?
A Yes.
MR. SCHEINER: Objection.
BY MR. HOAG:
Q What were those?
A Those inhalation studies in England, and a long-term inhalation study, the Patell Northwest having to do with--I don't know, various factors, smoke, uranium.
Q I guess I need to clarify it. I mean long-term inhalation studies that were funded in any way by CTR.
A Up until that point?
Q Yes.
A Not that I know of.
Q So Dr. Homberger was the first one funded by CTR?
A As far as I know, yes.
Q You said Dr. Jacobson went too. Did he look at what Dr. Homberger concluded were

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precancerous and cancerous conditions in the larynx of the hamster?
A Yes, but Dr. Jacobson, being a hematologist, he basically said I am not a high-powered pathologist. He couldn't decide. He didn't make any direct comments. The real comments were among Homberger, Gardener and Sommers.
Q So Gardener had some doubts, but overall he was going along with Sommers; is that what you are saying?
A Well, I guess so. I guess that is what I am saying. He didn't take any strong position one way or the other. He tended to agree with Dr. Gardener.
Q You mean that he tended to agree with Dr. Sommers?
A Yes. I am trying to think of the situation, whether it was more--it was more of an exchange between Gardener and Jacobson than there was between Jacobson and Sommers at that point. I would say in general they pretty much agreed. Different words were used, different terminology, but the bottom line was, in general they did not think that these were true cancerous lesions.
Q Dr. Gardener, at the time, was the

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scientific director; correct?
A Yes. At that point, yes.
Q Dr. Jacobson was, what was his position?
A Chairman of the Board of the Scientific Advisory Board.
Q Did he have any other position with CTR other than that?
A No.
Q Dr. Sommers, what was his position at that time?
A He was a board member.
Q Dr. Sommers, at some point became a full time employee of CTR?
A Yes. After he retired from Columbia University.
Q What year did Dr. Sommers become the--
A Scientific director.
Q What year was that?
A I don't know. Shortly after Dr. Gardener passed away. Oh, hell, '80, '84, '85, '83, '85, '86 or somewhere in there. I don't have a calendar in front of me. Anyway, he succeeded Gardener when Gardener retired and finally passed away.

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Q Prior to the time that Dr. Sommers became a full time CTR employee, did he have any project, research project funded in part by CTR?
A He had research projects from CTR before he even came on the Scientific Advisory Board.
Q What was that?
A I don't recall exactly, but I only knew about it--I was in Boston working with a collaborator and the collaborator was from Boston University. They were working on hamsters and I was working on hamsters on a totally different thing. He told me that--he told me what he was working on with Dr. Sommers for Columbia University. It was a funded grant from the Council for Tobacco Research. So he was a grantee, or he participated with the grantees before he became a board member.
Q After he became a board member did he receive any funding for any research from CTR?
A Not that I can recall. Wait a minute. He may have. I am trying to think now. There was a--I am not certain. I am not certain. He may have, but I am not certain.
Q There was no restrictions from board members receiving funding from CTR; is that correct?
A Restrictions, no.

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Q By the board members, or I mean the Scientific Advisory Board members of CTR?
A No. No restrictions.
Q Since you were there as a monitor at this particular meeting where they, the specific members of the board, along with Dr. Gardener, went down to Dr. Homberger's lab to look at his results?
A Yes.
Q You said you were a monitor. What do you mean when you say you were a monitor?
A Like I told you, I referred to your notes to save some time.
Q You said that you were a monitor. Did you look at stuff under the microscope?
A No.
Q So you just watched what everyone else did?
A Projections on the scope screen.
Q You didn't have the expertise to have an opinion one way or the other; did you?
A I have an opinion, but I am not an expert, so therefore I am not going to express my opinions.
Q Did you express your opinion during this meeting?

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A No.
Q Did you, at any time, express your opinion to Dr. Homberger whether or not the hamster inhalation studies indicated a cancerous or precancerous condition in the larynx of the hamsters?
A No, sir. Not my opinion, no, never.
Q How much funding did Dr. Homberger receive to do this inhalation study, funding from CTR?
A I don't know. I don't keep track of the budget. I know over the period of years, six or 700,000 bucks maybe, or maybe more than that if you include the grants. I can't--I don't have budgetary numbers in mind at all.
Q So what was the contractual agreement that Dr. Homberger had with regard to the research that he did on long-term hamster inhalation studies?
A I don't understand your question.
Q Well, by that I mean, were there any restrictions placed on how he could or what he could publish, or who owned the research?
A I don't know. I never saw the contract.
Q Did there come a time when Dr. Homberger was going to participate or planned to

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participate in a press conference to announce the findings that he considered to show cancer and precancerous formations that occurred as a result of tobacco smoke inhalation by hamsters?
MR. SCHEINER: Objection for the record.
THE WITNESS: I heard indirectly, yes.
BY MR. HOAG:
Q How did you hear that?
A I heard from Dr. Hockett who said that Dr. Homberger was making a presentation at some meeting and there was going to be a press conference.
Q Dr. Hockett, what position did he hold at the time he told you that?
A Associate scientific director and director of research.
Q For CTR?
A For CTR.
Q Approximately what year was that?
A I don't know. That is when that conference took place, and I will tell you that I can't remember those years.
Q Well, did Dr. Homberger actually have the press conference and make the announcement?
A I don't know if he did or not.

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Q Did you hear from anyone whether he did or not?
A No, I didn't.
Q Does CTR or did CTR, at any time, have a public relation counsel, or public relation representative who wrote news releases?
A Yes. At one time they had an individual by the name of Leonard Zahn. I think he had a contractual relationship with CTR to be the press representative.
Q Do you know whether or not Leonard Zahn did anything to sabotage the press conference that Dr. Homberger was supposed to have?
MR. SCHEINER: Objection.
THE WITNESS: Not that I know.
BY MR. HOAG:
Q Did Dr. Zahn ever tell you or talk to you about anything that he done in order to make it more difficult for Dr. Homberger to complete that particular press conference?
A No, sir.
Q Was Dr. Homberger discouraged in any way from making any public statements concluding his inhalation studies showing cancerous and precancerous conditions in hamsters?

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A Not that I am aware of.
Q At some point was Dr. Homberger denied additional funding?
A What do you mean "denied"?
Q He didn't get any additional funding from CTR to do research or just when he asked for a continuation to complete this project?
A Either one. I know that he completed his project and got the funding to complete the project.
Q Which project are you referring to?
A Well, he had grants and he had the grants and he had to finish up--finishing up of the inhalation study.
Q So was he turned down for funding for any of those things?
A Not that I know of.
Q Was he turned down for funding for any research?
A Continuation, yes.
Q Continuation of what work?
A I don't know. Whatever he applied for. I never saw the application.
Q Do you know whether or not he applied for a continuation of the inhalation research?

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A I presume he did. I don't know firsthand.
Q Do you know what he--
A I know he did not receive new money.
Q Do you know why?
A No.
Q Do you know whether it had anything to do with the fact that CTR didn't like the results that he was achieving?
MR. SCHEINER: Objection.
THE WITNESS: I never heard that. All I know is the Scientific Advisory Board did not approve it.
BY MR. HOAG:
Q Did Dr. Homberger want to continue his inhalation studies for a longer period of time?
MR. SCHEINER: Objection.
THE WITNESS: I presume so.
BY MR. HOAG:
Q Now, if in fact, the hamsters did have precancer or cancerous condition, would the additional inhalation studies help to confirm that?
MR. SCHEINER: Objection.
THE WITNESS: Well, like all good research, that has to be reconfirmed, and

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preferably in another laboratory. The answer to your question is yes, it would have to be confirmed and reconfirmed.
BY MR. HOAG:
Q Were you present when the Scientific Advisory Board discussed whether or not to continue their contractual relationship with Dr. Homberger?
A Yes.
MR. SCHEINER: Objection.
BY MR. HOAG:
Q You said yes?
A Yes.
Q Did they vote on it?
A They voted.
Q What was the vote?
A They voted that they did not approve it.
Q What was the vote, the vote count was unanimous?
A I don't know. I don't know whether it was, you know, eight to five, or six to 17. I don't keep score. I don't know whether a vote was taken. All I know is it was not approved.
Q Did you participate in those discussions?

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A None whatsoever.
Q Did you give any advice during those discussions?
A None whatsoever.
Q What was said during the discussion concerning whether to continue Dr. Homberger's contractual relationship with CTR?
A Dr. Gardener gave his report of what he saw on his visit to Cambridge, Massachusetts.
Dr. Sommer gave his report to what he saw in Cambridge, Massachusetts.
Dr. Jacobson made his comments about what he saw and observed in Cambridge, Massachusetts and some questions went back and forth. That was essentially the discussion.
Q Now, other than disagree with Dr. Homberger's conclusions that it was a precancer and cancerous condition that was found in the larynx of the hamsters, did they have any other problems with the experiment?
A Yes.
Q What were the other problems with the experiment?
A The point of the experiment was to produce lung cancer and he had not produced lung

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cancer.
Q Did anyone discuss, during the Scientific Advisory Board meeting, the reason why the hamsters wouldn't be likely to contract lung cancer, for example, a human being?
MR. SCHEINER: Objection.
THE WITNESS: I believe that that was discussed about the structure of the mouth structure and the nose structure and the retropharangeal area. Also the way the hamster was held in the holder where it was exposed to cigarette smoke. There were discussions of that sort.
BY MR. HOAG:
Q Do you recall Dr. Homberger stating that the hamsters didn't get lung cancer because the smoke stopped the larynx of the hamsters?
A I don't recall that.
Q Was that discussed at the Scientific Advisory Board meeting?
MR. SCHEINER: Objection.
THE WITNESS: The anatomical structure of the hamster was discussed. I don't recall anybody specifically addressing what Dr. Homberger had said.

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BY MR. HOAG:
Q Now, did Dr. Homberger, when he looked microscopically at the cells--I guess that is the right word, and if it wrong let me know--did he notice that there were any indications of disease formation in the hamsters?
A What do you mean by "disease"?
Q Illness.
A What?
Q I mean illness. Do you have a definition for disease that is different than illness?
A Disease covers a whole multitude of things. What you are talking about--you are talking about lesions, or are you talking about any other disease that the animal may or may not have?
Q Are lesions a disease?
A Well, disease can cause a lesion. Scarlet Fever and you turn red and you have a sore throat that breaks apart, and that is a lesion, but it was Scarlet Fever.
Q Did Dr. Sommer, did he agree that there were at least lesions?
A Yes. Nobody disagreed with the lesions. That is why the argument and discussions

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took place.
Q Did everybody agree that there was some kind of impact on health of hamsters caused by tobacco smoke?
A Whatever the process was, yes. Nobody disagreed with the fact that there was something going on there.
Q So Dr. Homberger had a long-term inhalation study that everyone agreed was causing some kind of health change in hamsters; correct?
A Well, if you want to use health in a broad term, yes.
Q But yet they decided not to continue funding for that project; is that correct?
MR. SCHEINER: Objection.
THE WITNESS: Scientific Advisory Board says that for contract purposes he was supposed to produce lung cancer, and Dr. Homberger had not produced lung cancer.
BY MR. HOAG:
Q Now, the mission of the Council for Tobacco Research is looking if there is a connection between tobacco and health; correct?
MR. SCHEINER: Correct.
THE WITNESS: In this particular case

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the contract was pointed and very specifically said the use of new models, animals, Golden Syrian hamsters used as models for the production of lung cancer when exposed to cigarette smoking. I am using my words, but that is a summary of what the Board discussed. The Golden Syrian hamsters.
BY MR. HOAG:
Q Does that seem a rational reason for the Council for Tobacco Research to discontinue funding?
A Having been a contractor myself, for the Air Force and the Office of the Naval Reserve for over 13 years and pharmaceutical companies in the interim period of time, three to 20 years. I can tell you the answer to that is yes. Yes. If the contract doesn't reach the objective you start over again and do something else and find a new model. Find a new model.
Q So for example, if his research would have shown to everyone in agreement that the hamsters got heart disease from cigarette smoking, they would have canceled it because it wasn't lung cancer; is that correct?

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MR. SCHEINER: Objection.
THE WITNESS: Based upon the contract, the answer to that is yes. Based upon the contract, the answer to that is yes.
BY MR. HOAG:
Q That is even though the CTR stated their goal is to research any relationship between tobacco and health; correct?
MR. SCHEINER: Correct.
THE WITNESS: Who said that?
BY MR. HOAG:
Q Let me find it and I will read it to you.
Before I read it to you, what is your understanding of the mission of the Council for Tobacco Research?
MR. SCHEINER: Objection.
THE WITNESS: The health effects of the use of tobacco and specifically tobacco smoke and cigarettes and tobacco smoke.
BY MR. HOAG:
Q Clearly Dr. Homberger's research was finding health effects from the use of tobacco smoke on a hamster; correct?
A Yes, but that wasn't the contract. The

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contract did not say the use of hamster exposure to smoke, what kind of lesions is it getting.
Q Dr. Homberger was really a very significant threat to the tobacco industry; wasn't he?
MR. SCHEINER: Objection.
THE WITNESS: Not in my opinion.
BY MR. HOAG:
Q Well, if the CTR would have to admit that disease was being caused through smoke inhalation in their own research, that would have been a real problem for the tobacco industry; wouldn't it?
MR. SCHEINER: Objection.
THE WITNESS: Not in my opinion.
MR. SCHEINER: Mr. Hoag, since it is almost an hour since the last break, and I know that I can tell that you can't finish this now, then we are in need of a break. Can we take one?
MR. HOAG: Sure.
MR. SCHEINER: Thanks. I would like a ten-minute this time, if that is okay.
MR. HOAG: That's okay.
(Thereupon, a recess was held.)

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MR. HOAG: We are back on the record after a break.
(Thereupon, Mr. Steven Klugman entered the room.)
BY MR. HOAG:
Q Doctor, do you smoke cigarettes?
A I beg your pardon?
Q Do you smoke cigarettes?
A I don't smoke anything.
Q Did you ever smoke cigarettes?
A Yes.
Q When you did smoke cigarettes how long did you smoke?
A All of 30 years.
Q How old were you when you first started to smoke cigarettes?
A To be honest to goodness, cigarettes or homemade cigarettes?
Q I guess either one. Either one.
A I had my first corn silk cigarette when I was 12 and when I had my first roll-up your own cigarette I think I was 14. After I got over the nausea and hiccupping and everything else, I became a Camel smoker.
Q What year was that? Tell me what year

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you were born in and I will figure it out.
A 1918.
Q So you were born in 1918 and you are talking about 1932?
A Yes.
Q When you became a Camel smoker when you were 14, how much did you smoke at that time as far as the number of cigarettes or packs?
A There was maybe five or six a week and it kept increasing until I got to college. I guess I was a two pack a day smoker.
Q So by the time you were 18 you were two packs a day?
A Seventeen.
Q By the time you were 17?
A I went to college when I was 16.
Q When you were 14, when you first started to smoke, did you have concerns about health effects of cigarette smoking?
A Oh, my mother told me it was bad, and my father told me it was bad, and my teacher told me it was bad, but we were smoking.
Q When they were telling you that it was bad, did they tell you that it would kill you, or things like that?

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A Well, there were all kinds of things that made you sick. I said yes, and I threw up and now I am over it.
Q After that initial time when you threw up, how long did it take you before it didn't make you sick to smoke cigarettes?
A Two or three weeks of smoking a puff here and there.
Q So why did you keep trying to smoke after you made--
A Why did I keep trying?
Q Yes.
A Because everybody on the block was smoking.
Q Was there anything about it that you liked other than other people did it too?
A Well, I liked to see the smoke rings and learn how to blow smoke rings and how to put it in your mouth and blow it out of your nostrils and I felt like I was a big man with cigarettes in my fingers.
Q Did you ever smoke more than two packs a day on an average?
A Well, maybe I have gotten--I may have gotten higher than that. It may have been a time

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when I was very, very busy and I smoked perhaps as many as three packs a day.
Q How old were you when you stopped smoking entirely?
A Thirty-four, thirty-five--no, stopped smoking entirely?
Q Yes.
A Entirely?
Q Smoking cigarettes?
A Entirely, entirely, i guess I was about 64, 65. I remember just before I got my Social Security card--Medicare card.
Q Why did you stop smoking entirely around 64 or 65?
A I couldn't afford three-and-a-half $5 cigars.
Q Were you still smoking cigarettes when you were in your 60's?
A No. I was smoking cigars.
Q How old were you when you moved to cigars from cigarettes?
A Let's see. I guess in my 30's. I started to smoke cigars when I was 32, 33 occasionally and then actually I dropped cigarettes and smoked almost exclusively cigars and occasionally

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a pipe full of tobacco. I had pipes at home.
Q Now, prior to the time that you were 64, 65, when you completely stopped smoking tobacco in any form, did you ever try to quit before that?
A No.
Q Why did you never try to quit before that?
A Because I didn't want to.
Q Did you ever, at any time, have any concerns about health effects?
A I read about it and I saw it and I was working at the Council and certainly had it in front of me, but it never really concerned me.
Q Did you ever have any--
A By that time I was heavily into cigars anyway.
Q Did you have any health effects from smoking tobacco?
A No that I know of.
Q Did any physician ever tell you that you should stop smoking?
A No.
Q Have you ever known anyone who contracted lung cancer who was a smoker?
A Yes.

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Q How many people?
A You mean other than my hospital visits?
Q Let's separate out, other than your hospital visits, did you know anyone that contracted lung cancer?
A Relatives and/or just occasional people in the neighborhood?
Q Yes. I'm talking about any people that you know of that contracted lung cancer who were smokers?
A Let's see. One, two, three, four and including Arthur Godfrey, five.
Q So that there were four other people other than Arthur Godfrey and were those friends, or relatives, or acquaintances, or famous people?
A No. Some of them were just acquaintances and one of them was a relative. Kind of a distant cousin.
Q So one was a relative and three of them were acquaintances who contracted lung cancer who were smokers?
A Yes.
Q Did you say yes?
A Yes. I said yes.
Q Did any of those people contract lung

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cancer who were smokers that you know of that continued smoking cigarettes after they were diagnosed with lung cancer?
MR. SCHEINER: Objection.
THE WITNESS: I can't speak for all of them. All I can tell you about is the distant relative, and he did not--once he was diagnosed he quit.
BY MR. HOAG:
Q Now, Arthur Godfrey, there were a number of fairly prominent people who contracted lung cancer over time. You did mention Arthur Godfrey. Why did you mention him over all the others?
A Well, because at the time he was at Massachusetts General Hospital I was doing research in the area and a number of my friends were on the staff of the Massachusetts General Hospital. I had the privilege of visiting that famous Patterson Suites in Massachusetts General Hospital and two doors down from my visit was Arthur Godfrey who had his chest opened up and a piece of his lung taken out.
Q Now, Arthur Godfrey--
A That was the key point. Not many people lived after such an extensive removal of lung

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tissue.
Q Did you ever listen to his radio show?
A I used to do it religiously.
Q Do you remember which cigarette company was advertising on his program?
MR. SCHEINER: Objection.
THE WITNESS: No, I don't. I don't remember that.
BY MR. HOAG:
Q Do you remember one of his sponsors was a cigarette company?
MR. SCHEINER: Objection.
THE WITNESS: Not specifically. I remember specifically cranberry juice, Ocean Spray Cranberry Juice. The reason I remember that is because I was a consultant to Ocean Spray Cranberry down in Massachusetts on Cape Cod and they used to brag about the fact that Arthur Godfrey used to use cranberry juice to keep his kidneys and his urinary tract open.
BY MR. HOAG:
Q Did he talk about that on his show? Do you remember did Arthur Godfrey talk about smoking on his radio show?

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A Yes, he did, occasionally.
Q What do you recall he said about smoking on his radio show?
A He said, "I think I got the lung cancer from smoking." He was telling people not to smoke. I think on practically every program when he had the time, or when he wasn't joking or singing or arguing with somebody.
Q Prior to the time that he contracted lung cancer, do you recollect him saying anything about cigarettes?
A Not, not specifically.
Q Do you recollect whether he did any commercials himself for any cigarette company?
A I don't remember that. He may have, but I don't remember that specifically. As I said, cranberry juice stands out with my relationship with Arthur Godfrey.
Q Do any members of your family smoke, any relatives other than your cousin?
A Now, or ever?
Q Well, actually both. Let's start with now.
A Now, I guess I have two occasional smokers in the family.

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Q Have any of your relatives quit smoking since you have known them?
A Since I have known them?
Q Yes.
A Well, I have lived a long time. A few have quit, yes.
Q Did any of them have difficulty quitting?
A Not that I recall. If they did they didn't tell me.
Q Is cigarette smoking addictive?
MR. SCHEINER: Objection.
THE WITNESS: Would you please define what you mean by "addictive."
BY MR. HOAG:
Q Well, do you have a definition for addiction?
A I want your definition in order for me to answer your question.
Q Well, I need for you to answer my question. Do you have a definition for addiction?
A That is the second question, and you are going to leave the first question alone?
MR. SCHEINER: Objection.
BY MR. HOAG:

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Q You didn't answer my first one. You answered my first one with a question. Do you have a definition for addiction?
A Yes, I do.
Q What is your definition?
A The clinical definition, behavioral definition, or pathological definition?
Q Where did you learn of this definition?
A Where did I learn of it?
Q Yes.
A By experience and observation as well a working with and discussing with scientists from the Drug Addiction Institute.
Q Does the Drug Addiction Institute receive any funding, or has the Drug Addiction Institute received any funding from the Council for Tobacco Research?
A Not that I know of.
Q Have you done any work for the Drug Addiction Institute?
A Not directly.
Q When you say "not directly," what do you mean?
A The answer is no.
Q Have you ever done any indirect work

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for the Drug Addiction Institute?
A No.
Q What is the Drug Addiction Institute?
A A National Institution of Drug Abuse.
Q Pardon me?
A The National Institution of Drug Abuse, or part of the National Institute of Health.
Q Have you ever done any work for the National Institute of Drug Abuse?
A No.
Q So what specifically is your definition of addiction?
A What specifically?
Q Yes.
A Specifically it means that an individual has such a physiological, pathological conversion in his body that he cannot refrain from not seeking it in a way that is self-destructive as well as sociologically destructive to those around him. He will steal, and hit, and beat, even to the extent of probably killing own members of his family. He will lose weight and get all kinds of pathological changes, behavioral changes and physiological effects on him in terms of his ability to perform his duties, his job, work, relationships with other people,

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family, such as morphine, cocaine, heroin.
Q Have you ever known of anyone who smoked cigarettes through a hole in their throat?
A Repeat that, please.
Q Have you ever known of anyone that smoked cigarettes through a hole in their throat?
A Through a hole in their throat?
Q Yes.
A I never knew anyone with a trachea.
Q Are you aware of whether or not that ever happens?
A I suppose it can happen. I am not aware of it.
Q Do you know what Buerger's disease is?
A Yes. I think.
Q What is it?
A It is changes in the vascular system which causes localized thrombi and dilation of the veins and I am not quite sure whether it affects the arteries or not.
Q Do you know whether or not it ever requires amputation of limbs?
A It can if the blood supply is cut off, yes.
Q Do you know whether or not cigarette

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smoking has any effect on Buerger's disease?
A Not specifically I don't.
Q If someone continued to smoke cigarettes, even though they knew that they would lose a limb as a result of smoking, would that be evidence of addition to you?
A Would that be evidence of addiction?
Q Yes.
A I think that that would be evidence of stupidity.
Q Well, do you think addiction is evidence of stupidity?
A Yes. Right from the very beginning.
Q Do you think if someone continues to smoke cigarettes after they are diagnosed with lung cancer, that that would be evidence of addition?
A If you want to define that term as addiction, yes.
Q Does cigarette smoking cause lung cancer?
A Not as an individual item, but in combination with other factors it can contribute towards, I believe, at least in my opinion. I believe it can contribute towards the formation of certain types of lung cancer.

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Q Has there ever been a single individual in the history of the United States who has ever contracted lung cancer as a direct result from smoking cigarettes?
A I don't know.
Q Is it more likely than not that at least some people die as a result of smoking cigarettes?
MR. SCHEINER: Objection.
THE WITNESS: That is a little bit of an extrapolation, but if you are saying to relate back that they smoke, and the fact that they die of something, then the answer is yes.
BY MR. HOAG:
Q Do you agree that more than 400,000 people in the United States die each year as a result of smoking cigarettes?
MR. SCHEINER: Objection.
THE WITNESS: Do I believe it?
BY MR. HOAG:
Q Do you agree with that?
A Do I agree?
Q That more than 400,000 people die each year in the United States as a result of smoking

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cigarettes?
A I have seen that figure bantered about in the newspaper. I haven't seen hard evidence that there are 400,000 and based upon some kind of statistical extrapolation. I have no reason to either doubt it or agree with it.
Q Does cigarette smoking causing any disease?
MR. SCHEINER: Objection.
THE WITNESS: Cigarette smoking, does it cause any disease? Cigarette smoking alone, I don't believe, causes any disease. It has got to be in combination with other factors. People are alive and there are multi-various people that eat and sleep and drink and they walk on the street and they are hit by exhaust from buses, and they work in polluted areas and really all kinds of things that people do. It could only be one factor among many. Maybe a combination is what causes the problem.
BY MR. HOAG:
Q So as you sit here today in 1997 you just don't know whether cigarette smoking causes any disease?

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MR. SCHEINER: Objection.
BY MR. HOAG:
Q Is that right?
A I did not say that.
Q You do not know that cigarette smoking causes any disease as we sit here today?
A I didn't say that. I said as an individual factor. It cannot stand alone. It is in combination with other factors.
Q One of the warnings that is used on cigarette packages today is the Surgeon General's warning that says "Warning, cigarette smoking causes lung cancer, heart disease and emphysema." Do you agree with that, that cigarette smoking causes lung cancer, heart disease and emphysema?
MR. SCHEINER: Objection.
THE WITNESS: Personally?
BY MR. HOAG:
Q Yes.
A My personal opinion?
Q Yes.
A Well, I can't, as an individual thing, accept that, but as a public health measure, a political measure, I can go along with that.
Q If you were giving a speech to a public

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group, would you say to that group that it has been established to your satisfaction that for public health purposes cigarette smoking causes lung cancer, heart disease and emphysema?
A For public health purposes I would go along with that statement.
Q Have you ever stated that to the public?
A No. I had no occasion to state that to the public.
Q Have you had an occasion to give speeches to the public groups?
A I beg your pardon?
Q Have you had an occasion to give speeches to public groups?
MR. SCHEINER: Objection.
THE WITNESS: Not public groups.
BY MR. HOAG:
Q Have you had occasion to give speeches to any group?
A Yes.
Q When is the last time you gave a speech?
A I can't think of when the last time I gave, or I have given a speech is unless you come up

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with a date or a place and maybe I will remember it.
Q I don't know when the last time you gave a speech was. I was hoping you would know.
A I haven't given a speech in many, many, many years. I can't really answer that.
Q During all of the time that you worked for CTR did you ever state that in your opinion, for public health purposes, that cigarette smoking causes heart disease, lung cancer and emphysema?
A Not that I can recall. I did--not that I can recall.
Q Did you ever make any statement indicating that it had not been proven that cigarette smoking caused any disease?
A Yes.
Q Did you make that statement on numerous occasions?
A I don't know, but one or two occasions. I can't be specific about that.
Q I want to have this marked, what I have faxed you, which is the Research Perspective on Smoking and Health. This is the first paged addressed by you. It is dated November 21, 1966. I am going to have that marked here as Plaintiff's Exhibit 1. If you could look at that.

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A Yep. All right.
(Thereupon, the document referred to was marked as Plaintiff's Exhibit Number 1 for identification.)
BY MR. HOAG:
Q Do you recognize that?
A Yes.
Q What is that?
A A speech I gave before a tobacco growers group.
Q How did you have an occasion to give that speech?
A As I recall I was asked by Dr. Little or Dr. Hockett--I am trying to think who it was--one or the other from time to time people from the CTR would contact some of the people who were in the tobacco business in one form or another.
They would try to give them a layman's view of what CTR and/or the industry was trying to do. I am trying to think of who it was now, but either Little or Hockett said that such a meeting was coming up and wanted to know if I would write something up and maybe even go down there and present it, which I did. November 21, 1966.
Q We have four, five, six, seven pages

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and seven pages which contain your address--
A Yes.
Q (continuing)--on there. Did you write this?
A Yes.
Q Did you write it in 1966?
A Yes.
Q Did anybody help you write it, or did you write it all by yourself?
A I wrote it by myself.
Q Have you had an occasion to review this document since 1966?
A No. I am doing it now.
Q What I would like to ask you to do is to read it all, and read all seven pages of it.
A Read all seven pages?
Q Yes. If there is anything in there that you don't agree with now, that your opinion would be different today, let me know what parts they are in if your opinion is different today.
MR. SCHEINER: You want him to read it on the record now?
MR. HOAG: I want him to read it on the record now and just go over it and see if he sees anything in that document that he

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disagrees with today as we speak. If there is any information that he has different than the information in there, then I would like him to state on the record what that information is that is different than what he put in this document back in 1966.
THE WITNESS: Okay. I am doing it. I am looking it over.
MR. SCHEINER: Objection. Just read it now, just look at it.
THE WITNESS: Do you want me to read it?
BY MR. HOAG:
Q Read it all and every line, you don't have to read it out loud, but when you run into--
A I am doing it. I am reading it through and when I read something that I have a different opinion on, I will let you know. Is that fair enough?
Q Yes.
MR. SCHEINER: Objection to that procedure.
THE WITNESS: On Page 2, Paragraph 3, "We must try to avoid being swept along. We will have to realize that reports from

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smoking withdrawal clinics, stories on smoking education programs, and even stories about tar and nicotine, have nothing to do with the basic goals of medical research."
I would probably want to change that a little bit today.
BY MR. HOAG:
Q What do you want to change it to say today?
A Well, today I would say that I think education is necessary and that from the public health point of view, that the position that the Surgeon General has taken is probably justified. It still doesn't alter the fact that the basic goals of the medical research are going on and should continue. I don't think that, just because of this situation, the political or otherwise, it should bring a halt to this kind of health research.
Q What do you mean, "This situation political or otherwise"?
A The situation that we are in right now.
Q You mean--
A I am giving a deposition on a lawsuit. That is a situation.
Q You are talking specifically about the

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situation of being deposed?
A No. I am talking about specifically the situation that we see in the newspapers today, lawsuits right and left.
Q So what, if anything, does that third paragraph on the second page that you just read have to do with the lawsuit?
A Have to do with what?
Q Lawsuit.
MR. SCHEINER: Objection.
THE WITNESS: What I am saying in light of what is going on today, I think, and I believe the information an increased amount of education for smoking and smoking awareness is justified. But I also believe that medical research into these questions should continue.
BY MR. HOAG:
Q Is there anything else that you want to say regarding that paragraph?
A No. That is it for that paragraph. Let me go on.
MR. SCHEINER: Telling you that the pages that he finishes of this document, I am taking them for myself when he is

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finished.
THE WITNESS: I am now over to Page 3. Probably give a different kind of statement on Item 7 on Page 3, because in the 30 years that have ensued, we have gone along beyond smoking condensates skin painting. I would probably make some other kind of statement because in today's science this is almost ancient history and doesn't apply any longer.
BY MR. HOAG:
Q When you say that we have gone beyond smoke condensates, what do you mean?
A Well, where you are using cigarette smoke now, not the condensates. The condensates is an arbitrary faction in which thousands and thousands of cigarettes are dehydrated and exposed to all kinds of cross pollinization forming all kinds of new compounds which have absolutely no relationship to the smoke that came out of the cigarette.
So today it is a better kind of research because you are using whole or portions thereof, rather than condensates. So I wouldn't use the information that is in Paragraph 7.
Q Is there any of the information in

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Paragraph 7 that you would still agree with?
A Practically nothing. I would agree with what I said at the time I said it.
Q Is what you said in Paragraph 7 no longer true today?
A No. It is essentially true, but you have to put it in a totally different light. You have to describe what the contents say it is. You have to describe the fact that it is not really applied in any way to the real life situation. People don't go around painting themselves with condensates. That is the whole point. They do smoke cigarettes.
I would probably alter Paragraph 3 in Item 8. A lot of people now know that the Council for Tobacco Research has been sponsoring tobacco and health research, many, many years, and that is no longer applicable today.
The next paragraph, of course, that is up to over 200,000,000, so the number is much lower than it really is today. So the numbers would change in the following paragraph. The Council for Tobacco Research alone, dah, dah, dah, dah, dah, dah, and the number of independent investigators has gone up significantly to two or three, four times what this

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number is. The number of research papers have increased by multiples. The numbers in kind of figures that are used here would have to be altered in three, four, five, six paragraphs under Item 8.
Q Other than the numbers for the years, and the number of grants in aid programs and investigators, is there anything else that you would change?
A No. I don't think so. It pretty much describes the situation.
Q Okay.
A You may, yes, I would say probably Page 5, some of these paragraphs have to be updated and in light of present day science because the diagnostic process has been improved significantly. It is more available to more people and more physicians and more hospitals and more clinics are using more sophisticated methods that would have to be updated.
With respect to the emphysema, that would have to be updated. It is pretty evident from a genetic point of view as well as environmental pollution point of view and smoking do contribute to the formation of certain types of emphysema and the surveys, the health surveys that have gone on that I am aware of in the past certainly indicate that this

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diagnostic sophistication in detecting emphysema has gone up significantly. The physicians can even say if you live in the city and you are 35 years old, in all probability you have the beginning of emphysema. It's just how extensive will it become by the time you pass away.
I can't make any comments about the business of peptic ulcers because I think that new science today would indicate that there is a little or no relationship between peptic ulcers, that peptic ulcers are caused by other factors other than genetic control or bacteriological control, or stress control, or dietary control. So that would have to be brought up to date.
There would have to be some modification of the paragraph which addresses itself to the subject of nicotine and heart and vascular disease to bring it up to date in terms of what is presently known, and whatever association may be with people who smoke and the nicotine from it. Some cardiovascular problems, which I am not an expert at. I believe it might have to be updated.
Of course, the next paragraph, "The report also stated," dah, dah, dah, dah, dah. That would have to be updated because there is no report

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which are much stronger than what this says.
With respect to the last paragraph on Page 5, "We have sponsored extensive work on the pharmacology of nicotine," dah, dah, dah, dah, dah. What we mean, I am speaking now with respect to CTR, and I don't know how extensive that is these days, but certainly CTR was one of the leaders in supporting research and defining the pharmacology metabolism and biochemistry of nicotine in animals and a great degree in humans.
Q Do you agree today that "This work has reaffirmed the general lack of chronic or cumulative effects of nicotine"?
MR. SCHEINER: Objection.
THE WITNESS: I said that that would have to be updated in light of the findings over the past 30 years. I can't give you a specific. I would say that it has be modified.
BY MR. HOAG:
Q Do you know how it should be modified?
A Not at this point. I can't be specific about that, but in general I would say there is a lot more information around under various circumstances, either genetic predisposition, or dietary

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predisposition that would indicate that certain population groups are tight that might be vulnerable or less, depending upon the other factors including smoking. So there certainly would have to be an update in light of today's science and today's knowledge.
I would say in general I wouldn't make very much modification right up until the very end here and that is about the only suggestion I can give you at this point.
Q You said right up to the end, and you are talking about Page 7, the last paragraph?
A I am all through with this.
Q Would you make any changes to the last paragraph?
A No, I wouldn't. It is a good generic paragraph.
Q So other than the parts that you discussed, the rest of what is in there you would still agree with today?
MR. SCHEINER: Objection.
THE WITNESS: Generally speaking, yes.
BY MR. HOAG:
Q Do you know whether or not there is any radioactive materials in cigarettes themselves?

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MR. SCHEINER: Objection.
THE WITNESS: In which cigarette?
BY MR. HOAG:
Q In your average everyday cigarette that you pick up and smoke.
A I don't know that for a fact. I heard way back many years ago that there was an indication of some radiographic material. Polonium I think was something, Polonium and Polonium II, Polonium II, but Polonium anyway a a possible radioactive material. I can't, for a fact, tell you that. I don't know.
Q Has CTR ever funded any research to measure the level of radioactive material in cigarettes or cigarette smoke?
A I vaguely remember they did. I can't place that. That is how the Polonium thing came to my mind. It was somewhere along the lines some years ago. Again, I tried to place it in continuity and I can't quite get there. Yes, I think they did. I don't know what form it took, or I don't even remember who did it. I know there were other studies going on at the same time having nothing to do with CTR, the Atomic Energy Commission was doing work along these lines.
Q But you are not sure that CTR funded

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some research related to radioactivity in cigarettes, or cigarette smoke?
A That is correct. I vaguely remember there was something. I don't remember specifically what it was, but Polonium comes to my mind.
Q Do you remember whether or not it may have been a grant program through the Scientific Advisory Board, a contract or special project?
A No. I don't. I really don't. It is hanging in the back of my brain somewhere.
Q Theodore Sterling, do you know him?
A Dr. Theodore Sterling?
Q Yes.
A Do I know him?
Q Yes.
A I met him once.
Q How did you come to meet him?
A I was doing a site visit at Washington University in St. Louis. It was way back in the '60s and Dr. Hockett called me in to his office and said, "If you have extra time, not necessary, but if you have extra time in St. Louis, pick up the phone and call this number and get together with Dr. Sterling if he has the time. Stop in and have a cup of coffee with him and see what he is doing." So it happened.

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I made my site visit to our grantees and had extra time before going to the airport and I called Sterling and Sterling invited me over and we had a cup of coffee. That is the first time I met him and essentially the last time I met him.
Q Was he a grantee at the time?
A Was he a grantee?
Q Yes.
A That was not my understanding. I understood later that he was a special project person. I don't know at that particular time when I visited him whether he was a grantee or not.
Q Do you know how much money he received to do CTR special projects?
A Do I know?
Q Yes.
A No.
Q Have you ever seen a list of special projects to see the recipients of the special projects?
A Yes. I have seen such a list.
Q How long ago?
A Several months.
Q Several months ago?
A Yes.

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Q Was it after you were contacted to be a witness in these tobacco cases?
A Essentially, yes.
Q Prior to that had you ever seen a list of the CTR special projects?
A No.
Q You said no?
A No. I said no.
Q Was this list of special projects shown to you during any deposition?
A I don't remember.
Q What exactly did Dr. Hockett want you to look at as far as finding out what Dr. Sterling was doing back in the '60s?
A He didn't give me exact instructions of anything. He said to go and meet the man and talk to the man and ask him what he is doing.
Q Did Dr. Hockett inform you or provide you with any information that indicated that Dr. Sterling was working on any CTR funded project at the time?
A No.
Q Did you follow your instructions and report back to Dr. Hockett and tell him or tell Dr. Hockett what Dr. Sterling was doing in 1960?

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A I told him what Dr. Sterling told me he was doing.
Q What is your recollection of what Dr. Sterling was doing?
A He was a mathematical statistician and he was analyzing existing data.
Q Relating to the tobacco research?
A Related to all kinds of data that he had gotten from the Federal Government and a number of other agencies. At least that is what I was told. I never saw any of it, but this is part of the conversation.
Q Can we take a couple of minutes break. I don't have very much left. I need to look over my notes.
MR. SCHEINER: I was going to tell you that we would like to wrap it up at 5:00, if that is fine.
MR. HOAG: That will probably not be a problem.
(Thereupon, a recess was held.)
BY MR. HOAG:
Q We are back on the record. I don't have any other questions.
MR. SCHEINER: Really?

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MR. HOAG: I could have told you.
MR. SCHEINER: I have just a few, or five minutes of solid questions and I realize you may have more after I am done.
(Thereupon, Mr. Klugman exited the room.)
CROSS EXAMINATION
BY MR. SCHEINER:
Q Dr. Lisanti, my name is Alan Scheiner. I am going to ask you a few follow-up questions about the exhibits that you were just asked to read by Mr. Hoag. The exhibit says on the first page that it was delivered to the Tobacco Growers Information Committee on November 21, 1966; is that correct? That is exactly who you gave it to?
A Yes.
Q Is that exactly the date?
A I believe it is the date.
Q The Tobacco Growers Information Committee obviously is in relationship to the tobacco industry; correct?
MR. HOAG: Objection. Leading.
THE WITNESS: Yes.
BY MR. SCHEINER:
Q The Tobacco Growers?

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A Yes.
MR. HOAG: Objection, leading.
BY MR. SCHEINER:
Q That is what they do?
A They grow tobacco, Number 1, and they also support the CTR at the time. At that time they were small supporters of CTR.
Q As far as you know, was anyone other than members of the Tobacco Growers Information Committee invited to hear you speak?
A No.
Q Have you ever given a speech directly to the general public?
A No.
Q Have you ever given any speeches directed towards the members of the tobacco industry?
A No.
Q Who were they directed to, if not the general public?
A Scientific Advisory Board.
Q Besides this, have you given any other speeches to members of the tobacco industry outside of the CTR?
A Not that I can remember.
Q Have you ever addressed any public

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forum, television, radio, or in person the public or press on health matters?
A No.
Q In giving this speech, were you intended to advise the public or the press with respect to health matters?
A No.
Q Since 1966, Dr. Lisanti, have you become aware of scientific developments in the field of the effects of smoking and health?
A Yes.
Q Have there been scientific developments in almost the 30 years with respect to emphysema?
A Yes.
Q Has there been a relationship between smoking and emphysema?
A Yes.
Q Have there been scientific developments in the area of heart disease?
A Yes.
Q In the relationship between nicotine and heart disease?
A Yes.
Q Do you believe that in those 30 years there has been a lot more evidence developed in

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scientific research relating to smoking to disease than it existed in 1966?
A Yes.
Q So in general, do you think this statement is a good primer for people today on the state of smoking and health research?
MR. HOAG: Objection to the form of the question. Leading.
THE WITNESS: With some modifications and generically speaking, and the modifications that I suggested with the updates and present knowledge, the answer is yes.
BY MR. SCHEINER:
Q Do you think that this address whether it is modified or not, is good health advice for people?
A Is it good health advice?
Q Are you telling, or trying to tell people whether it is healthy for them to smoke?
A Not. It is not intended for that.
MR. SCHEINER: I don't have any further questions. Do you have more follow-up?
MR. HOAG: Probably a couple more.
REDIRECT EXAMINATION

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BY MR. HOAG:
Q The Tobacco Growers Information Committee, where did that take place, this address?
A I have forgotten exactly. I think North Carolina. I am not certain of that.
Q Was it at an office, or a hotel, or do you remember?
A It was in a meeting room. I think a hotel, but I am not certain of that. It was a meeting room and there may be--maybe there were 150 or so people in there, more or less.
Q Do you remember whether Mr. Zahn was present for that meeting?
A Who?
Q Mr. Zahn, Z-a-h-n?
A No, not--he was not even part of the CTR at that time.
Q Was there any public relations person present for that meeting?
A Not that I know of.
Q Do you know whether there was any news relay written related to your address?
A I don't know. There may have been. I have no idea.
Q Was there any reason there wouldn't

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have been a news release?
MR. SCHEINER: Objection.
THE WITNESS: I have no idea.
BY MR. HOAG:
Q Was there any restrictions placed on inviting the news media to this address?
A Not that I know of.
Q Do you recall whether or not there were any representatives of the news media present for your address?
A Who?
Q Do you recall whether or not there were any members of the news media present for your speech?
A No, I don't recall.
Q You don't recall one way or the other; correct?
A No, I don't.
Q Do you know whether or not CTR ever distributed news releases?
A Other than the ones that I became aware of that Mr. Zahn put out, one or two that were put out by Dr. Little. I am not aware of any.
Q When did you become aware of the news release put out by Mr. Zahn, Leonard Zahn?

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A After I came on board.
Q Has it been scientifically proven that lung cancer is caused by cigarette smoking?
A No.
MR. SCHEINER: Objection.
THE WITNESS: No, it has not been scientifically proven.
BY MR. HOAG:
Q Has it been scientifically proven that smoking causes any disease?
MR. SCHEINER: Objection.
THE WITNESS: I don't know whether it has or not. You asked me about lung cancer and that is the one that I answered to.
BY MR. HOAG:
Q Has it been scientifically proven that cigarette smoking causes heart disease?
MR. SCHEINER: Objection.
THE WITNESS: Well, it all depends on what kind of heart disease you are talking about. There are many different kinds of heart disease. There have been some relationships that have been suggested in the scientific literature of nicotine may aggravate or perhaps stimulate certain kinds

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of cardiac problems.
BY MR. HOAG:
Q So are you aware of whether or not it has been scientifically proven that cigarette smoking causes any form of heart disease?
MR. SCHEINER: Objection.
THE WITNESS: Scientifically proven?
BY MR. HOAG:
Q Yes.
A Not that I am aware of.
Q Has it been scientifically proven that cigarette smoking causes emphysema?
A I believe so.
MR. SCHEINER: Objection.
BY MR. HOAG:
Q So you do believe that it has been scientifically proven that cigarette smoking causes emphysema?
A I believe so.
Q You don't believe it is scientifically proven that cigarette smoking causes lung cancer?
A That is correct.
Q Other than emphysema, are there any other diseases for which you believe it is scientifically proven that cigarettes cause that

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specific disease?
MR. SCHEINER: Objection.
THE WITNESS: Not that I can think of.
BY MR. HOAG:
Q How long have you been of the belief that cigarette smoking causes emphysema, scientifically proven that cigarette smoking causes emphysema?
A Eigtheen to 20 years.
Q Did you ever express a belief publicly during the time that you worked for the Council for Tobacco Research?
A No.
Q Did you ever express the belief to any member of the Scientific Advisory Board during the time that you worked for the Council for Tobacco Research?
A No.
Q Do you know of anyone on the Scientific Advisory Board for the Council for Tobacco Research who has ever stated publicly that it is scientifically proven that cigarette smoking causes any disease?
A I don't know whether there have been or not. There used to be a board member, Dr. Wyatt, one

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of the world's experts in emphysema and so on who did indicate the various forms of emphysema and indicated the role that cigarette smoke played in emphysema. I know that he published papers on it.
MR. SCHEINER: Do you want me to get rid of that call?
MR. HOAG: Yes, I guess.
(Discussion held off the record.)
BY MR. HOAG:
Q You were talking about Dr. Wyatt.
A Yes.
Q When was he a board member?
A This goes way back in--way back in the '60s and the '70s.
Q He was considered to be one of the national experts in lung disease and in particular emphysema?
A He did a lot of research on air pollution and room pollution and urban pollution and rural pollution.
Q Other than Dr. Wyatt, was there anyone on the Scientific Advisory Board, that you are aware of, that ever publicly stated that cigarette smoking causes any disease?
A I believe that Dr. Michael Brennan made

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such a statement. I think he still is a member of the board.
Q What was the statement that you recollect from Dr. Michael Brennan?
A I think he said that he was--there was convincing evidence that I believe--that I can't--I can't quote the man because I can't remember his exact words, but to the effect that cigarette smoking is related to lung cancer.
Q Did he use the word "cause" or "related;" if you know?
A I don't remember his exact words. There was an indication that it was part of the cause.
Q How long ago was it that he made that statement?
A Three, four years ago. I believe I saw it on television.
Q Other than the statement that you believe that Dr. Brennan made three or four years ago, was there any other member of the Scientific Advisory Board who ever publicly stated that it had been scientifically proven that cigarette smoking causes any disease?
MR. SCHEINER: Objection.

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THE WITNESS: Not that I can recall.
MR. HOAG: I don't have any other questions.
MR. SCHEINER: Thank you.
MR. HOAG: I assume that you want a copy of the deposition?
MR. SCHEINER: Yes. Give me one second to think if I need to ask one question. The answer is yes, I would like a copy.
RECROSS EXAMINATION
BY MR. SCHEINER:
Q Dr. Lisanti, you were asked some questions about whether certain things, whether smoking was scientifically proven to be a cause of certain diseases. Could you explain what you mean if you were to say something, that smoking was scientifically proven to be a cause of some disease?
A What I personally would mean?
Q What those words mean scientifically proven to cause?
A What those words mean to me is that if you knew the cause and you repeat this on a naive or health situation that you would get at least 50-percent, or have more, perhaps more response which would reproduce pathology and demonstrate a strong

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causal relationship.
MR. SCHEINER: That is it. I only have one question.
MR. HOAG: I think we are picking up background noise. Can you hear the background noise?
MR. SCHEINER: I don't know what is going on next door.
Did the court reporter hear Dr. Lisanti's answer?
THE COURT REPORTER: Yes.
MR. HOAG: She said yes. You can hear background noise. I didn't know if it was on your line, or going on this line, because neither one of us were involved with it.
MR. SCHEINER: It is next door.
MR. HOAG: Thank you very much for your time.
(Thereupon, the deposition was concluded at 4:40 p.m., reading and signing having been not waived.)
- - - - -

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_____
DEPONENT

SUBSCRIBED and sworn to before me this
____ day of _____.

_____
NOTARY PUBLIC, STATE OF FLORIDA AT LARGE.
My Commission Expires:_____

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CERTIFICATE

STATE OF FLORIDA)
: ss
COUNTY OF DADE)

I, JACK LEE MOORE, Shorthand Reporter and Notary Public for the State of Florida at Large, do hereby certify that I stenographically reported the deposition of DR. VINCENT LISANTI, a witness called in the above-styled cause; and that the foregoing pages, inclusive, constitute a true record of the testimony given by the witness.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

WITNESS my hand and official seal in the City of Miami, County of Dade, State of Florida this ____ day of August, 1997.

Notary Public, State of Florida at Large
My Commission Expires: April 20, 1999.

KLEIN BURY & ASSOCIATES
44 West Flagler Street, Suite 675
Miami, Florida 33130
(305) 579-0404

August 19, 1997

DR. VINCENT LISANTI
DEBEVOISE & PLIMPTON
875 Third Avenue
New York City, New York 10022

IN RE: HOWARD A. ENOLE, M.D., et al. VS. RJ REYNOLDS TOBACCO COMPANY, et al

Please take notice that on August 13, 1997 you gave your deposition in the above referred to matter. At that time you did not waive signature. It is now necessary that you sign your deposition.

Please come to our office at 44 West Flagler Street, Suite 675, Miami, Florida between the hours of 9:00 a.m. and 4:00 p.m. to read your deposition. Note that this address may be different than the one where you gave your deposition.

If you do not appear to sign your deposition within 30 days, the original will be forwarded to the attorney who requested your appearance for the deposition for filing with the Clerk of the Court.

If you wish to waive your signature, sign your name in the blank at the bottom of this page and return it to us.

Very truly yours,

Notary Public

I HEREBY WAIVE MY SIGNATURE

DR. VINCENT LISANTI

cc: Attorneys of Record

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